

TABLE OF CONTENTS

	PAGE
ARTICLE I.	
Section 33-1	PURPOSE ----- 1
	----- 1
ARTICLE II.	
Section 33-2	GENERAL PROVISIONS ----- 1
Section 33-3	Rules of Construction ----- 1
Section 33-4	Definitions ----- 1
Section 33-5	Structures and Uses Affected by Zoning -- 7
	Continuance of Nonconforming Structures or Uses ----- 7
A.	Nonconforming Structures ----- 7
B.	Nonconforming Uses ----- 7
Section 33-6	Amortization of Nonconforming Uses or Buildings ----- 7
Section 33-7	Nonconformance Due to Re-Classification-- 8
Section 33-8	General Use Provisions ----- 8
A.	District Classifications ----- 8
B.	Off-Street Parking ----- 8
C.	Off-Street Loading and Unloading ----- 11
D.	Parking Area Improvement ----- 11
E.	Permanency of Spaces Provided ----- 13
F.	Front and Side Yards in All Residential Districts ----- 13
ARTICLE III.	
Section 33-9	DISTRICTS ----- 13
Section 33-10	Establishment and Designation ----- 13
	Boundaries ----- 14
ARTICLE IV.	
Section 33-11	DISTRICT REGULATIONS ----- 14
Section 33-12	Conformity With Chapter Required ----- 14
Section 33-13	Contingent Uses - All Districts ----- 14
Section 33-14	Special Uses - Specified Districts ----- 15
	Permitted Uses - Specified Districts ---- 19
A.	"R1" District ----- 19
B.	"R2" District ----- 20
C.	"R3" District ----- 20
D.	"RA" and "RB" District ----- 21
E.	"B1A" District ----- 24
	"B1B" District ----- 26
F.	"B2" - "B2A" - Regional & Neighborhood Shopping Centers ----- 27
G.	"B3A" and "B3B" District ----- 31
H.	"B4" District ----- 33
I.	"M1" District ----- 34
J.	"M2" District ----- 35
K.	"M3" District ----- 36
L.	"IA" District ----- 36
M.	"MHP" District ----- 41
N.	Planned Unit Development ----- 44
Section 33-15	Height Requirements - All Districts ----- 57
Section 33-16	Residential Lot Area Requirements ----- 60
Section 33-17	Yard Requirements - All Districts ----- 63
Section 33-18	Lot Coverage in Specified Districts ----- 67
Section 33-19	Residential Building Size - Specified Districts ----- 67

1	ARTICLE V.	ADMINISTRATION AND ENFORCEMENT -----	68
2	Section 33-20	Improvement Location Permit -----	68
3	Section 33-21	Certificate of Occupancy -----	69
4	Section 33-22	Completion of Existing Buildings -----	69
5	Section 33-23	Enforcement -----	70
6	Section 33-24	Filing Fees -----	70
7	Section 33-25	Penalties -----	70
8	ARTICLE VI.	BOARD OF ZONING APPEALS -----	71
9	Section 33-26	Organization -----	71
10	Section 33-27	Meetings -----	71
11	Section 33-28	Procedure -----	71
12	Section 33-29	Powers of the Board of Zoning Appeals ---	71
13	ARTICLE VII.	PRIVATE RESTRICTIONS -----	72
14	Section 33-30	When Chapter More Restrictive -----	72
15	Section 33-31	When Other Provisions More Restrictive --	72
16	ARTICLE VIII.	SEVERABILITY -----	72
17	Section 33-32	-----	
18	ARTICLE IX.	HISTORICAL DISTRICTS -----	72
19	Section 33-33	Purpose -----	72
20	Section 33-34	Definitions -----	73
21	Section 33-35	Creation of the Historic Preservation	
22		Review Board -----	74
23	Section 33-36	Establishment and Regulation of Historic	
24		Preservation Districts -----	74
25	Section 33-37	Certificates of Appropriateness -----	75
26	Section 33-38	Pre-Existing Historic Districts -----	77
27	Section 33-39	Enforcement & Penalties -----	77
28	Section 33-40	Saving Clause -----	78
29	ARTICLE X.	FLOOD PLAIN MANAGEMENT AND CONTROL -----	78
30	Section 33-41	General Criteria For Flood Plain	
31		Regulations -----	78
32	Section 33-42	Definitions -----	78
33	Section 33-43	Flood Hazard Area Delineation -----	80
34	Section 33-44	Establishment of District Boundaries ---	80
35	Section 33-45	District Boundaries Changes Thereto ----	80
36	Section 33-46	General Flood Plain District (GF) -----	80
37	Section 33-47	Floodway Districts (FW) -----	81
38	Section 33-48	Floodway - Fringe District (FF) -----	83
39	Section 33-49	Conditions Attached to "Special Permits"-	84
40	Section 33-50	Nonconforming Uses -----	84
41	Section 33-51	Variances -----	84
42	Section 33-52	Warning and Disclaimer of Liability ----	85
43	Section 33-53	Severability -----	85

1 BILL NO. ~~6-79-11~~ 15 (as amended)

2
3 GENERAL ORDINANCE NO. G- 06-80

4 AN ORDINANCE classifying, regulating and restricting
5 the location, height, area, bulk and use of buildings
6 and structures and the use of land within the terri-
7 torial jurisdiction of the City Plan Commission of the
8 City of Fort Wayne, Indiana, for said purposes dividing
9 such territory into districts, and amending Chapter 33
10 of the Code of the City of Fort Wayne, Indiana, 1974.

11 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,
12 INDIANA:

13 SECTION 1. That Chapter 33 of the Code of the City of Fort Wayne,
14 Indiana, of 1974, be and the same is hereby amended to be and read as fo
15 llows:

16 ARTICLE I. PURPOSE

17 Section 33-1. The zoning regulations and zone districts as herein
18 set forth are made in accordance with a comprehensive plan in order that
19 adequate light, air, convenience of access, and safety from fire, flood and
20 other danger may be secured; that congestion in the public streets may be
21 lessened or avoided; and that the public health, safety, comfort, morals,
22 convenience and general public welfare may be promoted. They are made with
23 reasonable regard to existing conditions, the character of buildings erected
24 in each district, the most desirable use for which the land in each district
25 may be adapted and the conservation of property values throughout the terri-
26 tory under the jurisdiction of the City Plan Commission of the City of Fort
27 Wayne, Indiana.

28 ARTICLE II. GENERAL PROVISIONS

29 Section 33-2. RULES OF CONSTRUCTION. In this chapter words used
30 in the present tense include the future, the singular includes the plural
31 and the plural the singular. Unless otherwise specified, all distances
32 shall be measured horizontally, in any direction.

33 Section 33-3. DEFINITIONS. The following terms, unless a con-
34 trary meaning is required by the context or specifically otherwise pre-
35 scribed, shall have the following meanings:

36 (A) Accessory Building and Use

37 (1) A building or use subordinate to another struc-
38 ture or use located on the same lot and which does not change or alter the
39 character of the premises.

40 (2) Public utility communication, electric, gas,
41 water and sewer lines, their supports and incidental equipment.

42 (3) Where a substantial part of the wall of an
43 accessory building is part of the wall of the main building or where an
44 accessory building is attached to the main building in a substantial manner
45 as by a roof, such accessory building shall be counted as part of the main
46 building.

47 (B) Accessory Living Quarters - Living quarters within an
48 accessory building for the sole use of persons employed on the premises;
49 such quarters having no kitchen facilities and not rented or otherwise used
50 as a separate dwelling.

1 (C) Alley - A right-of-way other than a street, road,
2 crosswalk or easement, designed for the special accommodation of the property it reaches.

3 (D) Block Face - The side of two city blocks that face a
4 common street.

5 (E) Block Group - A block group is a combination of contiguous blocks having a combined average population of about 1,000. Block
6 groups are approximately equal in area (discounting parks, cemeteries, railroads, yards, industrial plants, rural areas, etc.); they are subdivisions of census tracts which simplify numbering and data control. Each
7 block is identified by the first digit of the three-digit block number. Block group "1" will contain any block in range 101-199, block group "2" in
8 range 201-299, etc.

9 (F) Board - the Board of Zoning Appeals of the City of
10 Fort Wayne.

11 (G) Building - A structure having a roof supported by columns or walls designed, built or used for the enclosure, shelter or
12 protection of persons, animals, chattels or property.

13 (H) Building, Detached - A building having no structural connection with another building.

14 (I) Building, Height of - The vertical distance measured from the adjoining street centerline grade at a point opposite the center of
15 the principal frontage of the building to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard
16 roof; and to the mean heights level between the eaves and ridge of a gable, hop or gambrel roof. Where the buildings are set back from the street line, the heights of the building may be measured from the average elevation of
17 the finished lot grade at the front of the building.

18 (J) Building Line - The line nearest the front of and across a lot establishing the minimum open space to be provided between the
19 front line of a building or structure and the street right-of-way line.

20 (K) Building, Main - A building constituting the principal use of a lot.

21 (L) Building, Nonconforming - A legally existing building which fails to comply with the regulations set forth in this chapter applicable to the district in which such building is located.

22 (M) Building, Semi-Detached - A main building having one wall in common with an adjacent main building.

23 (N) Camp Ground - Any area or tract of land used or rented for occupancy by campers using tents for periods not to exceed two weeks.

24 (O) Cemetery - Land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

25 (P) Certificate of Occupancy - A certificate issued by the Zoning Enforcement Officer stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this chapter.

26 (Q) Clinic or Medical Health Center - An establishment where patients are admitted for special study and treatment by two or more

1 licensed physicians and their professional associates, practicing medicine
2 together.

3 (R) Commission - The Fort Wayne City Plan Commission.

4 (S) District or Zone - A section of the territorial juris-
5 dictional area of the Fort Wayne City Plan Commission for which uniform
6 regulations governing the use, heights, area, size and intensity of use of
7 buildings and land, and open spaces about buildings are established by this
8 chapter.

9 (T) Dwelling - A building or portion thereof, used pri-
10 marily as a place of abode for one or more human beings, but not including
11 hotels, lodging or boarding houses or tourist homes.

12 (U) Dwelling, Multiple Family - A building or portion
13 thereof used for occupancy by two, three or more families living independ-
14 ently of each other.

15 (V) Dwelling, One Family - A building used for occupancy
16 by one family.

17 (W) Dwelling, Two Family - A building used for occupancy
18 by two families living independently of each other.

19 (X) Dwelling Unit - A dwelling or a portion of a dwelling
20 or of an apartment hotel used by one family for cooking, living and sleeping
21 purposes.

22 (Y) Educational Institution - Public, parochial, charit-
23 able or non-profit junior college, college or university, other than trade
24 or business schools, including instructional and recreational uses, with or
25 without living quarters, dining rooms, restaurants, heating plants and other
26 incidental facilities for students, teachers and employees.

27 (Z) Extended Group Home - A facility located in a residen-
28 tial community providing shelter and/or rehabilitation for from seven (7) to
29 fourteen (14) children under the age of eighteen (18) years, referred by a
30 governmental body or duly licensed social service agency, who for various
31 reasons cannot reside in their family home. Twenty-four hour adult super-
32 vision is mandatory and professional supervision and consultation is avail-
able to both child care staff and children. The purpose of this type of
facility is to provide a service for the child who does not need the struc-
ture of an institution in that he/she does not present a threat to the
community, yet is not a foster home candidate. The goal of the service is
to return home, other placement or emancipation, depending upon the age of
the child and the circumstances of his/her family.

33 (AA) Family - One or more persons living as a single house-
34 keeping unit, as distinguished from a group occupying a hotel, club, nurses
35 home, fraternity or sorority house. A family shall be deemed to include
36 servants.

37 (BB) Garage, Private - A detached accessory building or a
38 portion of a main building, used for the storage of self-propelled vehicles
39 where the capacity does not exceed three vehicles, or not more than one and
40 one-half vehicles per family housed in the building to which such garage is
41 accessory, whichever is the greater.

42 (CC) Garage, Public - Any building or structure other than
a private garage, and which is used for storage, repair, rental, greasing,
washing, servicing, adjusting or equipping of automobiles or other motor
vehicles.

(DD) Half-Way House - A resident facility for sixteen (16) or less persons eighteen (18) years of age or older, referred by a governmental body or duly licensed social service agency, which provides short-term rehabilitative services in a transitional environment, to persons who are physically, emotionally or socially handicapped. The goal of the service is to aid the individual's successful re-entry into the community as an independent and a productive member.

(EE) Home Occupation - Any use conducted entirely within a dwelling and participated in solely by members of the family, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof and in connection with which there is no commodity sold upon the premises except that which is produced thereon, and provided, however, in no event shall a barbershop, beauty parlor, tea room or animal hospital be construed as a home occupation.

(FF) Hotel or Motel - A structure or portion thereof in which more than five guest rooms are used to provide or offer temporary accommodations for transient guests.

(GG) Improvement Location Permit - A permit issued by the Zoning Enforcement Officer stating that the proposed erection, construction, enlargement or moving of the building or structure referred to therein complies with the provisions of this chapter.

(HH) Junkyard - Including Automobile Wrecking - a lot or a part thereof used for the storage, keeping, dismantling, abandonment or sale of junk, scrap metal, scrap vehicles or scrap machinery or parts thereof.

(II) Kennel, Animal - Any place where more than three dogs or more than three any single type of domestic animals are kept. For this purpose such animals shall not be counted until they reach the age of six months.

(JJ) Limited Group Home - A facility located in a residential community providing shelter and/or rehabilitation for six (6) or less children under the age of eighteen (18) years, referred by a governmental body or duly licensed social service agency, who for various reasons cannot reside in their family home. Twenty-four hour adult supervision is mandatory and professional supervision and consultation is available to both child care staff and children. The purpose of this type of facility is to provide a service for the child who does not need the structure of an institution in that he/she does not present a threat to the community, yet is not a foster home candidate. The goal of the service is to return home, other placement or emancipation, depending upon the age of the child and the circumstances of his/her family.

(KK) Lodging House - A building with more than two but not more than ten (10) guest rooms where lodging with or without meals is provided.

(LL) Lot - A parcel, tract or area of land, it may be single parcel separately described in a deed or plat which is recorded in the Office of the County Recorder; it may be a part of a single parcel described in a deed or plat which is recorded in the office of the County Recorder, provided the part to be used is adequate in size to meet all yard requirements of the Zoning Ordinance; or it may include parts of a combination of such parcels when adjacent to one another and used as one. In determining lot area and boundary lines, no part thereof within the limits of the street or any private access serving more than one main building shall be included.

1 (AAA) Street - A public way established or dedicated by duly
2 recorded plat, deed, grant, governmental authority or by operation of law.

3 (BBB) Structure - Anything constructed or erected which
4 requires location in or on the ground or attachment to something having a
5 location in or on the ground.

6 (CCC) Territorial Jurisdiction - The City of Fort Wayne,
7 Indiana, and the contiguous unincorporated areas outside of the City of Fort
8 Wayne shown on a map on file in the office of the County Recorder of Allen
9 County, Indiana.

10 (DDD) Tourist Home - A building in which one but not more
11 than five (5) guest rooms are used to provide or offer overnight accommoda-
12 tions for transient guests.

13 (EEE) Trade or Business School - Secretarial or Business
14 School or College when not publicly owned or not owned or conducted by or
15 under the sponsorship of a religious, charitable or non-profit organization;
16 or a school conducted as a commercial enterprise for teaching instrumental
17 music, dancing, barbering or hair dressing, drafting or for teaching indus-
18 trial or technical skills.

19 (FFF) Trailer Park - Any tract of ground designed for use or
20 used by one or more trailers of the independent mobile home type defined in
21 this ordinance and which is used for dwelling or sleeping purposes regard-
22 less of whether a charge is made for such accommodation.

23 (GGG) Use - The employment or occupation of a building,
24 structure or land for a person's service, benefit or enjoyment.

25 (HHH) Use, Nonconforming - An existing use of land or build-
26 ing which fails to comply with the requirements set forth in this chapter
27 applicable to the district in which such use is located.

28 (III) Use, Open - The use of a lot without a building or
29 including a building incidental to the open use with a ground floor area
30 equal to five (5) percent or less of the area of the lot.

31 (JJJ) Yard - A space on the same lot with a main building,
32 open, unoccupied and unobstructed by structures, except as otherwise
provided in this chapter.

(KKK) Yard, Front - A yard extending across the full width
of the lot, the depth of which is the least distance between the street
right-of-way line and the building line.

(LLL) Yard, Rear - A yard extending across the full width of
the lot between the rear of the main building and the rear lot line the
depth of which is the least distance between the rear lot line and the rear
of such main building.

(MMM) Yard, Side - A yard between the main building and the
side lot line, extending from the front yard or front lot line where no
front yard is required, to the rear yard. The width of the required side
yard is measured horizontally, at 90 degrees with the side lot line, from
the nearest point of the side lot line to the nearest part of the main
building.

(NNN) Zoning Enforcement Officer - An official of the Plan
Commission Staff of the City of Fort Wayne, Indiana who issues any and all
required permits and enforces the provisions of this chapter and the plan-
ning and zoning laws of the State of Indiana within the planning jurisdic-
tion of the Fort Wayne Plan Commission.

1 (MM) Lot, Corner - A lot at the junction of and abutting
2 two or more intersecting streets.

3 (NN) Lot, Front - That part of a lot adjacent to and paral-
4 lel with the street. The front of a corner lot shall be considered as that
5 part of the lot having the least amount of footage adjacent to and parallel
6 with either one of the streets. Whenever such footage is the same on both
7 of such streets, either part of the corner lot may be considered as the
8 front of the lot.

9 (OO) Lot, Through - A lot having frontage on two parallel
10 or approximately parallel streets.

11 (PP) Lot Width - The dimension of a lot, measured between
12 side lot lines on the building line.

13 (QQ) Mobile Home, Dependent - A mobile home which requires
14 service connection for sewer, water and power facilities and which is so
15 designed or constructed to permit occupancy for dwelling or sleeping
16 purposes.

17 (RR) Mobile Home, Independent - One which does not require
18 service connections for sewer, water or power and is so designed or con-
19 structed as to permit occupancy for dwelling or sleeping purposes.

20 (SS) Mobile Home Park - Any tract of ground designed for
21 use or used by one or more mobile homes which provides the necessary ser-
22 vices such as water, sewer and power connections for the dependent-type
23 mobile homes as defined in this ordinance.

24 (TT) Parking Area, Public - An open area, other than a
25 street or alley designed for use or used for the temporary parking of more
26 than four motor vehicles when available for public use, whether free or for
27 compensation, or as an accommodation for clients or customers.

28 (UU) Parking Space (Off-Street, One) - A space other than
29 on a street or alley designed for use or used for the temporary parking of a
30 motor vehicle, and being not less than 9 feet wide and 20 feet long exclu-
31 sive of passageways.

32 (VV) Person - A corporation, firm, partnership, associa-
tion, organization or any other group acting as a unit, as well as a natural
person.

(WW) Private School - Private preprimary, primary, grade,
high or preparation school or academy.

(XX) Sign - Any board, device or structure or part thereof
used for advertising, display or publicity purposes. Signs placed or
erected by governmental agencies for the purposes of showing street names or
traffic directions or regulations for other governmental purposes shall not
be included herein.

(YY) Story - That portion of a building included between
the surface of any floor and the surface of the floor next above, or if
there is no floor above it, then the space between any floor and the ceiling
next above it; also any portion of a building used for human occupancy
between the topmost floor and the roof. A basement shall not be counted as
a story unless the height of the surface of the first floor above the aver-
age elevation of the finished lot grade at the front of the building exceeds
four (4) feet.

(ZZ) Story, Half - A story under a gable, hop or gambrel
roof, the wall plates of which on at least two (2) opposite exterior walls
are not more than two (2) feet above the floor of such story.

Section 33-4. STRUCTURE AND USES AFFECTED BY ZONING. No Structure or land shall hereafter be used and no structure or part thereof shall be erected, moved or altered unless in conformity with the provisions of this chapter.

Section 33-5. CONTINUANCE OF NONCONFORMING STRUCTURES OR USES.

A. Nonconforming Structures.

(1) Maintenance Permitted - A nonconforming structure lawfully existing upon March 1, 1955 may be maintained, except as otherwise provided in this section.

(2) Repairs - A non-conforming structure may be repaired or altered provided no structural change shall be made.

(3) Additions, Enlargements or Moving.

a A structure nonconforming as to use or lot area per dwelling unit shall not be added to or enlarged in any manner unless such structure, including such addition or enlargement, is made to conform to the use and area requirements of the district in which it is located.

b A structure nonconforming as to heights or yard requirements shall not be added to or enlarged in any manner unless such addition or enlargement conforms to all the requirements of the district in which it is located.

c No nonconforming structure shall be moved in whole or in part to any other location on the lot on which it is located unless every portion of such structure is made to conform to all the requirements of the district in which it is located.

B. Nonconforming Uses.

(1) Continuation and Change of Use - Except as otherwise provided in this chapter:

a A nonconforming use lawfully existing upon
the effective date of this chapter may be
continued.

b A nonconforming use may be changed only to a use of the same or more restricted classification.

(2) Expansion Prohibited

a A nonconforming use of a structure designed for a conforming use shall not be expanded or extended into any other portion of such conforming structure nor changed except to a conforming use.

b A nonconforming use on a part of a lot shall not be expanded or extended into any other portion of such lot.

Section 33-6. AMORTIZATION OF NONCONFORMING USES OR BUILDINGS.

A. Whenever a nonconforming use has been discontinued for a period of twelve (12) months such use shall not thereafter be re-established and use thereafter shall conform to the provisions of this chapter.

1 B. No building damaged by fire or other causes to the
2 extent that its restoration will cost more than double its assessed valuation
3 shall be repaired or rebuilt except to conform to the provisions of
4 this chapter.

5 C. A nonconforming open use of land lawfully existing
6 upon March 1, 1955 shall be discontinued on or before March 1, 1960.

7 D. Any nonconforming billboard or advertising structure
8 not attached to a building, lawfully existing upon March 1, 1955 shall be
9 discontinued on or before March 1, 1965.

10 Section 33-7. NONCONFORMANCE DUE TO RE-CLASSIFICATION. The
11 provisions of Sections 5 and 6 shall also apply to structures and uses which
12 hereafter become nonconforming due to any zoning reclassification or inclusion
13 pursuant to this chapter or any change in the provisions in this chapter
14 and any open use of land referred to in subsection (c) of Section 6
15 which has existed as a nonconforming open use of land under Chapter 36 of
16 the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by
17 General Ordinance 2836 adopted January 11, 1955, shall be discontinued when
18 said land has existed as a nonconforming open use for a period of five (5)
19 years; or has been a nonconforming open use of land under this Act as amended
20 plus any nonconforming open use of land under this Act as amended plus any
21 nonconforming open use under the zoning laws of Allen County, Indiana for
22 periods of time totaling five (5) years.

23 Section 33-8. GENERAL USE PROVISIONS.

24 A. District Classification.

25 The terms R District, B District or M District shall
26 be deemed to refer respectively to all district designated by the same
27 letter; e.g., B District shall include the B1A, B1B, B2, B2A, B3A, B3B and
28 B4 Districts.

29 B. Off-Street Parking.

30 (1) Minimum Requirements: The following off-street
31 parking spaces shall be provided and maintained by the owner of or person
32 using property for each building which is hereafter erected or the use of
33 which is hereafter changed from a use described under any one of the numbered
34 subparagraphs of the lettered subsections of Section 14 of this chapter,
35 to a use described under a different numbered subparagraph of a lettered
36 subsection of Section 14 of this chapter and which new use requires a greater
37 number of parking spaces by the standards hereinafter in this subsection B
38 prescribed:

- 39 a For any dwelling unit - At least one and
40 one half (1½) parking spaces plus one
41 parking space for each two (2) sleeping
42 rooms rented to persons not members of the
43 family occupying the dwelling unit.
44 (G-97-70, 8/25/70)
- 45 b For any auditorium, gymnasium, stadium or
46 theatre, or any other similar place of
47 assembly, except churches - At least one
48 parking space for each six (6) seats based
49 on the maximum seating capacity, including
50 fixed and movable seats.
- 51 c For any hotel in a B3A or B3B District,
52 apartment hotel, club house, dormitory,
53 fraternity house or any other similar
54 use - At least one parking space for each
55 two (2) sleeping rooms.

- d For any hotel in a B4 District or any other similar use - At least one parking space for each sleeping room.
- e For any place of assembly without fixed seats - At least one parking space for each 120 square feet of gross floor area thereof.
- f For any bank, funeral home, office building, professional office, library, museum, welfare institution or any other similar use - At least one parking space for each 400 square feet of gross floor area thereof.
- g For any medical clinic or any other similar use - At least three parking space for each doctor or dentist using the clinic, plus one space for each two regular employees including nurses.
- h For any hospital, sanitarium, sanatorium, convalescent home or any other similar use - At least one parking space for each three beds or any portion thereof.
- (i) For any eating or drinking establishment or any other similar use where customers are seated and served within a building - At least one parking space for each 200 square feet of gross floor area thereof.
- j For any eating or drinking establishment or any other similar use where customers are served outside of a building - At least one parking space for each 50 square feet of gross area thereof, provided, however, that there shall be not less than six (6) parking spaces for each such establishment.
- k For any furniture store, household appliance store or mechanical trades display store or any other similar use - At least one parking space for each 1,000 square feet of gross ground floor area thereof plus one space for each 1,500 square feet of the gross area of floors other than the ground floor used for sales, display or show purposes.
- l For any food market establishment or any other similar use, with a gross floor area of less than 2,500 square feet - At least one parking space for each 200 square feet of gross floor area thereof.
- m For any food market establishment or any other similar use, with a gross floor area in excess of 2,500 square feet - At least one parking space for each 75 square feet of gross floor area thereof.

- n For any retail store or service, except those specified above - At least one parking space for each 400 square feet of gross floor area thereof.
- o For any manufacturing, processing, wholesaling, storage, or any other industrial use or commercial establishment not specifically set out in this subsection - At least one parking space for each two employees, plus sufficient spaces to park all company-owned or leased motor vehicles, semi-trailers and trailers.
- p For any Launderette, Laundromat, Self-Service Laundry, Washeteria or any similar use - At least one parking space for each two washing machine or portion thereof.
- q For any bowling alley - At least four parking spaces for each bowling alley thereof.
- r For any trailer coach park - At least one parking space on the same parcel of land for each individual house trailer.
- s For any commercial or business office having a gross floor area in excess of 10,000 square feet and occupied solely by the employees of one person, as defined in this chapter - At least one parking space for each 800 square feet of gross floor area thereof.

(2) Mixes Uses - In the case of mixed uses in the same building or structure, the total requirement for the off-street parking facilities shall be the sum of the requirements of the various uses computed separately on the basis of the items set out in this section and off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use except as hereinafter specified in Section 8B (3) hereof.

(3) Collective Parking Facilities - Nothing in this section shall be construed to prevent collective provision for any off-street parking facilities for two or more buildings or uses; provided, however, that the total number of off-street parking spaces shall not be less than the sum of the requirements for the various individual uses involved computed separately on the basis of the items set out in this section.

(4) Where Provided - All parking spaces provided pursuant to this section shall be on the same lot with the building or use for which such spaces are required, except that the Board, after public hearing, may permit the parking spaces to be on any lot within three hundred feet of the building; provided, that the requirements of subparagraphs (d) and (r) of paragraph (1) of this subsection shall not be waived; provided, however, that if the Board determines, after public hearing, that it is impractical to provide parking spaces on the same lot with the building or use for which such spaces are required, or within three hundred feet thereof, the Board may permit the parking spaces to be on a lot a greater than three hundred feet from such building or use, subject to appropriate conditions imposed by the Board regarding such location, character or other features of the proposed lot for parking spaces as are reasonably required

for the purpose of this chapter; provided, further, that in the area bounded by the Pennsylvania Railroad right-of-way, Webster Street, Superior Street and Lafayette Street, if the Board determines, after public hearing, that any part of the area within three hundred feet of the building to be erected or use to be established is regularly occupied or used by existing structures or uses, or is otherwise unavailable, the Board shall waive all of the requirements of this subsection B as to all parking spaces not provided by reason of such occupancy, use or other unavailability.

(5) Distance Measurements - The distance to any parking space area as herein required shall be measured between the nearest point of the off-street parking facility and the nearest point of the building said parking facility is to serve.

(6) Access - All parking facilities provided pursuant to this section, except those required by subparagraphs (a), (g) and (o) of subsection (1) above, shall be directly accessible from a street.

C. Off-Street Loading and Unloading.

On the same premises with every building, structure or part thereof, hereafter erected, established or enlarged and occupied for manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, laundry, dry cleaning or other uses, involving the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained space for vehicles standing, loading, and unloading as follows:

A 12-foot by 35-foot loading space with 14-foot height clearance for every 20,000 square feet or fraction thereof on floor area in excess of 3,000 square feet of floor area used for abovementioned purposes, or for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of land used for the abovementioned purposes. Provided, however, that in no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirements of this chapter.

D. Parking Area Improvement.

(1) The Board of Public Works of the City of Fort Wayne is hereby authorized and required to prescribe minimum specifications for paving, surfacing, drainage of all land used for off-street parking, whether required by this chapter or otherwise, and all driveways thereto.

(2) All land which is hereafter placed in use for off-street parking and all driveways thereto, and all land which has been put to such use since on or after December 3, 1969, and which is hereafter to be used for off-street parking; shall be paved or surfaced and shall be drained with materials and in a manner which meets the minimum specifications and standards for parking lots adopted December 2, 1969, by the Board of Public Works of the City of Fort Wayne, and any current or future amendments thereto by said Board, provided, however, that nothing contained in this Paragraph D shall be deemed to require the paving of any off-street parking space or driveway thereto for any dwelling unit. Any proposed drainage plan must be approved by the Board of Public Works prior to the issuance of any Driveway Access Permit.

(3) All land which is located within the boundaries of St. Mary's River on the North, Clay Street on the East, Penn Central Railroad on the South, and Fairfield Avenue on the West, in the City of Fort Wayne, Indiana, which has been and/or hereafter is used for off-street parking, and all driveways thereto, must be paved or surfaced and drained as provided in the preceding paragraph.

1 (4) All land which is hereafter used and has been
2 used continuously for off-street parking and for driveways thereto, on or
3 prior to December 2, 1969, must be surfaced with compacted crushed stone of
4 uniform size and texture of not less than three (3) inches depth and in a
5 manner which prevents such material from eroding, washing or otherwise being
6 deposited on public sidewalks and street right-of-ways. Any continuing
7 violation of this paragraph for a period of ninety (90) days after notice of
8 such violation has been mailed by the Board of Works to the owner of the
land as shown on the tax duplicates in the Office of the Assessor of Allen
County, Indiana, shall constitute a nuisance in violation of this chapter,
shall be unlawful, and such use shall be subject to all penalties provided
in this chapter; provided however, that nothing contained in this paragraph
shall be deemed to require the paving of any off-street parking space or
driveway thereto for any dwelling unit.

9 (5) All land in or adjoining an R or B District
10 which is hereafter placed in use for off-street parking, except for any
11 dwelling unit, shall be landscaped to aid in controlling the circulation of
cars and pedestrians, to identify entrances and exits, and to improve the
12 appearance of such use to maintain property values in the area and the
following specific landscaping requirements must be satisfied:

- 13 a All open, off-street parking areas shall
14 provide and maintain shade trees of a
variety hardy to this region and totaling
15 not less than 1% of the surfaced parking
area. The minimum size tree island shall
not be less than 70 square feet.
- 16 b Screening, consisting of a hedge, wall, or
17 uniformly painted fence to provide a
visual separator and physical barrier with
18 maximum height of four feet shall be
provided between said off-street parking
19 and all R and B areas. These lots
adjacent to a residential district shall
20 provide screening between such land and
the R District not less than six (6) feet
in height.
- 21 c The total landscaped (green) area for any
22 parking lot shall not be less than 10% of
the gross area developed. The owner shall
23 be responsible for the perpetual main-
tenance of the green space.

24 (6) Set-Backs - All land used for off-street parking
25 in districts for which front yards are required by this chapter shall be
located not less than five (5) feet from any property line abutting on a
26 street; provided, however, that nothing contained in this Paragraph D shall
be deemed to apply to any off-street parking space or driveway thereto for
27 any single family dwelling unit. All parking lots shall have curbsings
around perimeters at a sufficient location to keep vehicles from overhanging
28 or encroaching upon abutting properties, streets, alleys or sidewalks.
Curbsings are also to be used to facilitate drainage and insure no discharge
29 of water onto abutting properties.

30 (7) Lighting - Any light used to illuminate land
used for off-street parking or driveways thereto shall be installed on
31 private property and maintained so as to reflect the light away from any
adjoining R District. It shall also be designed to avoid glare into street
32 right-of-way.

1 (8) Permit - Any person constructing a parking lot
2 pursuant to the provisions herein after March 1, 1955 shall obtain an
3 improvement location permit. Said permit shall be issued after applicant
4 has submitted evidence that his proposed off-street parking area improvement
5 shall comply with provisions herein.

6 E. Permanency of Spaces Provided.

7 Any parking or loading space which was established
8 prior to March 1, 1955 and which is used or intended to be used in connection
9 with any main building, structure or use, or any spaces designed and
10 intended to comply with the requirements of this chapter for any such main
11 buildings or structure erected after March 1, 1955, shall hereafter be
12 maintained so long as said building or structure remains, unless the owner
13 provides and maintains in another location an equivalent number of required
14 spaces which conform to the provisions of this chapter.

15 F. Front and Side Yards in All Residential Districts.

16 No required front yard, and no required side yard
17 adjacent to a street, may be used to satisfy the off-street parking or
18 loading requirements of this Section 8.

19 G. No trailer, mobile, mobile unit, or other temporary
20 facility, shall be used for school, church or other non-residential use for
21 a period longer than two (2) years for school use and one (1) year for
22 church use unless the period is extended by variance duly granted by the
23 Board of Zoning Appeals; provided that in no event shall such temporary
24 facilities be permitted where permanent use for the purpose is not permitted
25 or authorized; provided further that such temporary facilities used in
26 connection with a construction project may be used in any district where the
27 use of the completed structure would be permitted as long as the construction
28 is proceeding with reasonable diligence.

29 ARTICLE III. DISTRICTS

30 Section 33-9. ESTABLISHMENT AND DESIGNATION. For the purpose of
31 this chapter the City is hereby divided and classified into nineteen (19)
32 districts designated as follows:

33 Designation, R1, One Family Residence District
34 Designation, R2, Two Family Residence District
35 Designation, R3, Multiple Family Residence District
36 Designation, RA, Residence District A
37 Designation, RB, Residence District B
38 Designation, B1A, Limited Business District
39 Designation, B1B, Limited Business District
40 Designation, B2, Regional Shopping Center District
41 Designation, B2A, Neighborhood Shopping Center District
42 Designation, B3A, General Business District A
43 Designation, B3B, General Business District B
44 Designation, B4, Roadside Business District
45 Designation, M1, Light Industrial District
46 Designation, M2, General Industrial District
47 Designation, M3, Heavy Industrial District
48 Designation, IA, Interchange Access Center District
49 Designation, MHP, Mobile Home Park
50 Historical District
51 Flood Plain District

52 The above districts and their respective boundaries are hereby established
as shown by the symbols on the map entitled, "City of Fort Wayne Zoning
Map," dated September 16, 1969, which is on file in the Office of the Plan

Commission which map and all explanatory matter thereon by reference is incorporated herein and made a part hereof.

Lands which may hereafter be included or re-included in the territorial jurisdiction of the City Plan Commission shall automatically become classified in the following corresponding City zoning districts when such lands at the time of their inclusion in the jurisdiction of the City Plan Commission are classified under the zoning laws of the County, as indicated below, subject to amendment as provided in this chapter:

COUNTY DISTRICT DESIGNATION	CORRESPONDING CITY DISTRICT DESIGNATION
A1 Agricultural	RA Residence, District A
A2 Flood Plain	RB Residence, District B
A3 Estate	RA Residence, District A
RS1 Suburban Residential	R1 Single Family Residence Dist.
RS2 Multiple Family	R3 Multiple Family Residence Dist.
MH Mobile Homes	MHP Mobile Home Parks
C1A Professional Services	B1A Limited Business District A
C1 Limited Commercial	B1B Limited Business District B
C2 Planned Shopping	B2 Shopping Center District
C3 General Commercial	B3B General Business District B
C4 Roadside Commercial	B4 Roadside Business
C5 Commercial Interchange	IA Interchange Access Ctr. District
I-1 Light Industrial	M1 Light Industrial District
I-2 General Industrial	M2 General Industrial District
I-3 Heavy Industrial	M3 Heavy Industrial District
I-4 Planned Industrial	M2 General Industrial District

Section 33-10. BOUNDARIES.

Unless otherwise indicated, the district boundary lines are land lines, the center lines of streets, alleys, or railroad rights-of-way or such lines extended.

Where the street layout actually on the ground varies from the layout as shown on the zoning map, such shall be interpreted according to the reasonable intent of this chapter.

ARTICLE IV. DISTRICT REGULATIONS

Section 33-11. CONFORMITY WITH CHAPTER REQUIRED. No building or structure shall hereafter be constructed and no building, structure or land shall hereafter be used except in conformity with the provisions of this chapter as permitted.

Section 33-12. CONTINGENT USES - ALL DISTRICTS. The contingent uses hereinafter set forth shall be permitted by the Board, after public hearing, in any district where such uses are essential or desirable to the public convenience or welfare, provided, however, no permit for a contingent use shall be granted if the Board shall find that such use is in conflict with any plan duly adopted by ordinance of the Common Council. In granting such permit the Board may impose appropriate conditions regarding the location, character and other features of the proposed building, structure or use as are reasonably required by the purposes of this chapter.

A. Such Permitted Contingent Uses are Identified as Follows:

(1) Airport or Heliport

(2) Cemetery

(3) Governmental installation not otherwise permitted.

(4) Hospital, Sanitarium, Sanatorium, Preventorium or Asylum not otherwise specified in this chapter.

(5) Medical Health Center or Clinic

(6) Public Utility facilities such as radio and television transmitter stations and towers; petroleum and natural gas transmission lines, pumping stations and facilities, electric substations and telephone exchanges where not otherwise permitted by this chapter; railroad lines; classification yards and terminals; and other similar uses of a public utility or public service nature; including structures and appurtenances for their enclosure, maintenance and operation.

(7) Educational Institution

(8) Private School

(9) Golf Course

(10) A not-for-profit neighborhood educational, recreational or cultural establishment or community association, including but not limited to: a branch YMCA, YWCA, CYO or Boy Scout building provided, however, that the dispensing of alcoholic beverages or any business activity on said premises shall not be permitted; and provided further that no permit shall be issued for such use unless the board shall first find that it will constitute a neighborhood activity center of a nature compatible with the character of the neighborhood in which it is to be located.

(11) Public Parking Area, when used as an accessory use to a conforming use and within 300 feet of the main use or structure on the same, adjacent or detached lot, or when used as an accessory use to a nonconforming use lawfully existing on the effective date of this chapter and on the same lot or land contiguous thereto; subject to the regulations of Section 8; provided, however, that in no event shall the public parking area referred to in this subsection be construed as to include a structure as defined in paragraph 54 of Section 3 of this chapter. No permit under this subsection shall be required for parking areas permitted under Section 14.

(12) Camp Grounds and Trailer Parks as defined in Section 3, in public parks, without action of the Board of Zoning Appeals, but subject to the standards and regulations of the Park Board or other public agency having jurisdiction over the public park.

Section 33-13. SPECIAL USES - SPECIFIED DISTRICTS

A. Special uses may be permitted by the Board after public hearing only in the specified districts indicated below. No permit for a special use shall be granted unless the Board shall have first found that the public convenience and welfare will be substantially served and that the proposed use will not be unduly detrimental to the surrounding area. In the exercise of its approval the Board may impose such conditions regarding the location, character and other features of the proposed building or structure or use as it may deem advisable in the furtherance of the purposes of this chapter.

B. In RA, RB, B3A, B3B, M1, M2 and M3 Districts, the Board may permit:

1 (1) Penal or correctional institution or sanitarium,
2 hospital or asylum for contagious, mental, drug or liquor addict cases.

3 (2) Fairground

4 (3) Transient amusement enterprise medicine show or
5 circus, the chief activity of which is carried on for gain or profit.

6 (4) Gun Club, Skeet Shoot or Target Range, provided
7 that satisfactory evidence is presented to the Board that adequate precau-
8 tions will be taken to safeguard the public from dangers of firearms used
9 therein.

10 (5) Animal Breeding and Raising for experimental
11 laboratory or fur production purposes, and Animal Kennels, as distinguished
12 from general livestock raising.

13 (6) Sanitary Land Fill

14 (7) Refuse Dump

15 (8) Golf driving range, putting green, or miniature
16 golf course.

17 (9) Gravel, Rock, Stone or Sand Extraction, Crush-
18 ing, Washing and Sorting - subject to the following requirements:

19 a Excavation:

20 i Final slopes of sand or gravel shall
21 not be steeper than one foot hori-
22 zontal or one foot vertical.

23 ii Temporary operating cut slopes of
24 sand and gravel steeper than one
25 foot horizontal to one foot vertical
26 shall in no case be brought closer
27 to an exterior property line, right-
28 of-way line of any street, road, way
29 or alley, as existing or as proposed
30 in the Comprehensive Development
31 Plan than 50 feet where a sight
32 screen is provided or 75 feet in the
case where no provision is made for
sight screening.

iii Explosives shall be used only
between sun-up and sun-down except
in the case of an emergency.

iv Final sloping of quarry or sand and
gravel pit excavations shall be
accomplished within the time speci-
fied in the quarry or sand and
gravel pit permit or as extended by
the Board of Zoning Appeals.

b Drainage of Premises:

The finished excavation shall be graded
where possible in such a manner as to
prevent the stagnation of storm waters or
natural seepage.

Planting:

c Refilling, Erosion Control and Screen

- (i) Dikes or other barriers and drainage structures shall be provided to prevent silting of natural drainage channels or storm drains in the area surrounding the quarry or sand and gravel pit.
- (ii) All final cut slopes shall be treated to prevent erosion; topsoil shall be replaced on such slopes to support vegetation; ground cover shall be planted within twelve months after a cut slope is excavated to its final position; and such ground cover shall be maintained for a period of time sufficient to provide vegetation or a density that will prevent erosion.
- (iii) Where required, suitable plant material shall be placed and maintained to screen out slopes from public view.
- (iv) Whenever quarrying or sand and gravel pit operations on any property have been completely exhausted, all buildings, structures or equipment not authorized under the permitted uses for the district in which the property is located, shall be entirely removed from such property within one year after such completion.

(d) Maintenance and Operation:

- (i) Quarries and sand and gravel pits shall be maintained at all times in a neat and orderly manner.
- (ii) Quarries and sand and gravel pits shall be operated so as to keep dust and noise to a minimum and access roads shall be maintained as dust-free surfaces from the public street to within one hundred feet of the loading point within the quarry or sand and gravel pit.
- (iii) Vehicles carrying materials from quarries or sand and gravel pits shall be loaded in such manner as to prevent spilling rock, gravel, sand or other materials of a mineral nature while in transit upon roads and highways.
- (iv) Quarry or sand and gravel pit excavations which may penetrate near or into a usable water bearing stratum

shall be conducted in such a manner that any such stratum so approached or encountered will not be subject to pollution by operations or the excavation of a sand and gravel pit or subsequent to the abandonment of stone quarry or sand and gravel pit.

- e Continuation of Existing Quarry or Sand and Gravel Pit.

A quarry or sand and gravel pit operation lawfully existing upon the effective date of this amendment to this chapter may be continued so long as such continued use complies with the requirements of Subsections (a), (b), (c) and (d) of Section 1 of this amendment to this chapter.

- C. In B4, M1 and M2 Districts, the Board may permit:

- (1) Custom butchering, meat cutting and canning.
- (2) Livestock sales or auction, stock pens, except that such use shall not be permitted within 300 feet of an R District.
- (3) Trailer Park, as defined in Section 3, provided that the following standards are met:

- a No trailer park shall be located except with direct access to a primary, secondary street, major highway or expressway as shown on the Thoroughfare Plan for the City of Fort Wayne. In no event shall access to a trailer park be gained through a residential area or utilizing a residential type street. Also, the trailer park property shall have adequate frontage along the access road to provide for proper and safe ingress and egress to the trailer park area, considering the fact that an auto pulling a trailer is much longer and would require more maneuvering space than would normal automobile traffic.
- b All sanitary sewage facilities, including connections provided for trailer space occupancy, shall meet the minimum standards of the City of Fort Wayne Board of Health, Allen County Board of Health, or the State of Indiana Board of Public Health depending upon the agency having jurisdiction. In the event there is a duplication of any laws of any of these agencies, the agency with the most restrictive requirements shall prevail.
- c No trailer space in a trailer park shall be smaller than 30 feet in width and shall contain a minimum of 1,500 square feet of area for each trailer, exclusive of any street and/or driveway areas.

1 D. In considering a petition for any permitted Special
2 Use, the Board shall give due regard to the following factors as they will
3 apply to the particular situation:

4 (1) The location and size of the use; the nature and
5 intensity of the operations involved in or conducted in connection with it;
6 its site layout, including parking space requirements; and its relation to
7 streets giving access to it so that vehicular traffic to and from the use
8 will not create undue hazards to the normal traffic of the vicinity, taking
9 into account among other things, vehicular turning movement in relation to
10 routes of traffic flow, relation to street intersections, sight distances,
11 and relation to pedestrian traffic.

12 (2) The nature, location, size, and site layout of
13 the use so that it will be harmonious to the district in which it is situ-
14 ated.

15 E. (1) All special uses which existed March 1, 1955 and
16 which are located in a district which would permit such use in accordance
17 with the provisions of this section, shall be regarded as conforming uses
18 and may be continued, except that major changes in layout, expansion or
19 extension to such uses shall be subject to Board review and approval as
20 required for Special Uses.

21 (2) All special uses hereafter authorized by the
22 Board in accordance with the provisions of this section, shall be regarded
23 as conforming uses and may be continued, except that major changes in lay-
24 out, expansion or extension to such use shall be subject to Board review and
25 approval as required for Special Uses.

26 F. In R3 Districts the Board may permit a branch bank,
27 branch post office, currency exchange, branch library, loan office, profes-
28 sional or commercial office, public utility customer office, real estate
29 office, studio or savings and loan association.

30 G. In R1, R2, R3, RA and RB Districts the Board may
31 permit insurance and similar offices which satisfy all the requirements for
32 "Home Occupation," as such term is defined in this chapter, for a period not
33 to exceed one (1) year from the date of the special use Improvement Location
34 Permit issued by authority of the Board. The Special Use Improvement Loca-
35 tion Permit may be reissued on each subsequent annual expiration date for an
36 additional year if the Board finds that the public convenience and welfare
37 will be substantially served and that the proposed renewal will not be
38 unduly detrimental to the surrounding area. A public hearing will not be
39 required for renewal permits.

40 Section 33-14. PERMITTED USES - SPECIFIED DISTRICTS. The
41 following uses shall be permitted in the district hereinafter specified:

42 A. "R1" District - One Family Residence

43 (1) One Family Dwelling

44 (2) Public Park or Recreation Area

45 (3) Church, Public or Parochial Primary or Secondary
46 School, including attached or free standing announcement or bulletin board,
47 not exceeding 24 square feet in area.

48 (4) Home Occupation

49 (5) Limited Group Home, if its location is first
50 approved by the Board following a public hearing.

(6) Day Nursery, if its location is first approved by the Board following a public hearing.

(7) Accessory Building and Use.

(8) Name Plate or Sign - One per dwelling unit not exceeding 1 square foot in area; unlighted signs not exceeding 12 square feet in area pertaining to sale or rental of property on which located.

B. "R2" District - Two Family Residence

(1) All Uses Permitted in the "R1" District, plus:

(2) Two Family Dwelling

(3) Day Nursery

(4) Limited Group Home, provided that not more than two group homes or halfway houses in any combination as outlined by definitions 26, 30, and 36 shall be located in any block group and that no more than one group home or halfway house be located on a block face without a prior approval of the Board of Zoning Appeals (see definitions for block groups and block faces). In no event shall any of the above uses be continuous. Certificate of Occupancy required in all cases.

(5) Extended Group Homes, if its location is first approved by the Board following a public hearing.

(6) Half-Way House, if its location is first approved by the Board following a public hearing.

(7) Accessory Building and Use.

C. "R3" District - Multiple Family Residence

(1) All uses permitted in the "R2" District, plus:

(2) Multiple Family Residence

(3) Apartment Hotel

(4) Day Nursery, Tourist Home, Lodging Home

(5) Nursing Home or Rest Home

(6) Non-Profit Private Club

(7) Mortuary

(8) Extended Group Home, provided that not more than two group homes or halfway houses in any combination as outlined by definitions 26, 30 and 36 shall be located in any block group and that not more than one group home or halfway house be located on a block face without prior approval of the Board of Zoning Appeals (see definitions for block groups and block faces). In no event shall any of the above uses be contiguous. Certificate of Occupancy required in all cases.

(9) Half-Way House, provided that not more than two group homes or half-way houses in any combination as outlined by definitions 26, 30 and 36 shall be located in any block group and that not more than one group home or halfway house be located on a block face without prior approval of the Board of Zoning Appeals (see definitions for block groups and block faces). In no event shall any of the above uses be contiguous. Certificate of Occupancy required in all cases.

1 (10) Office or Studio - if its location is first
2 approved by the Board following a public hearing.

3 (11) Accessory Building and Use

4 D. "RA" District and "RB" District - Residence (G-97-70,
5 8/25/70)

6 (1) Dwelling

7 (2) Public Park and Recreation Area

8 (3) Church, Public or Parochial Primary or Secondary
9 School, including attached or free standing bulletin board not exceeding 24
10 square feet in area.

11 (4) Agriculture, Nursery or Truck Garden (Open or
12 Under Glass)

13 (5) Home Occupation

14 (6) Tourist Home or Lodging Home, if its location is
15 first approved by the Board of Zoning Appeals following a public hearing.

16 (7) Day Nursery, Nursing Home or Rest Home, if its
17 location is first approved by the Board following a public hearing.

18 (8) Accessory Building and Use, including roadside
19 stands for the retail sale of commodities produced on the premises only.

20 (9) Name Plate or Sign, one per dwelling not exceed-
21 ing 1 square foot in area; unlighted signs not exceeding 12 square feet in
22 area pertaining to the sale or rental of property on which it is located.

23 (10) If the Commission shall find that substantial
24 property rights in the area surrounding the tract may be directly affected
25 by the development, a public hearing shall be held by the Commission before
26 it approves a preliminary development plan; otherwise, a public hearing
27 shall not be required. Notice of any such public hearing shall be the same
28 notice as is required under the laws of the State of Indiana for the adop-
29 tion of a Master Plan or amendments thereto under the Planning Acts of the
30 State of Indiana.

31 a The development plan shall meet the loca-
32 tion criteria:

33 (i) The location and size of the devel-
34 opment would be compatible with the
35 surrounding area and would not
36 conflict with any components of the
37 Master Plan of the City of Fort
38 Wayne.

39 (ii) The location of the development
40 would provide direct access to a
41 secondary or primary street or
42 sufficient right-of-way and improve-
43 ment width, or a residential street
44 that meets the minimum requirements
45 of both right-of-way and improvement
46 of a secondary street unless waived
47 by the Plan Commission.

(iii) Written approval is received from the agency having jurisdiction that the development would not impose hardships on the following facilities:

- (a) Water
- (b) Sewer
- (c) Streets
- (d) Schools
- (e) Parks & Playgrounds
- (f) Fire Protection
- (g) Storm Water Drainage

(iv) The Commission shall determine which street shall be dedicated and which passageways are to be private streets or parking lots.

(v) If the Commission is of the opinion that the location of the multiple family or multiple group development would conflict with the Master Plan for the City of Fort Wayne or would be detrimental to the growth of existing uses in the surrounding area, the Commission may disapprove said multiple development proposal, providing, however, such approval by the Commission will not be unreasonably withheld.

b The preliminary development plan shall meet the following standards and include the following information and supporting data:

(i) No less than 2,500 square feet of land is devoted to any efficiency, one or two bedroom living unit. In determining density no part of any existing street right-of-way or proposed right-of-way as shown in the Thoroughfare Plan shall be included.

(ii) Living units having three (3) or more bedrooms shall have a minimum 4,000 square feet of land per unit. In determining density no part of any existing street right-of-way or proposed right-of-way as shown in the Thoroughfare Plan shall be included.

(iii) The minimum off-street parking requirement shall be one and one-half (1½) spaces per unit and must be in an acceptable location to the building served. All parking spaces on public or private streets shall be parallel to the street.

- (iv) All dedicated streets shall conform to the minimum requirements of the Subdivision Control Ordinance of the City of Fort Wayne and provide alignment with existing dedicated streets.
- (v) The maximum building coverage does not exceed thirty (30) percent of the tract, exclusive of streets.
- (vi) Recreation or laundry facilities be located in a manner that would serve only the proposed multiple family complex. The use of these facilities by persons living outside this complex would be a violation of this ordinance.
- (vii) In a multiple family or multiple group development, no building shall be closer than twenty-five (25) feet to an adjacent property line in the case of a one-story building nor closer than thirty (30) feet in the case of a two-story building. The Plan Commission may waive front, side or rear yard requirements if such waiver would compliment the plan.
- (viii) Date, Scale 1"=50', North Point Name of Designer or Engineer and name and address of developer of tract.
- (ix) Accurate boundaries of proposed development and accurate location of abutting streets and structures.
- (x) Location, size, use and capacity of all structures existing or to be placed on the tract.
- (xi) Proposed point of ingress and egress for the planned development with proposed parking areas.
- (xii) Existing and proposed rights-of-way of existing or proposed streets, road and highways.
- (xiii) Proposed site screening and landscaping of development. A minimum of forty (40) percent of all open space, exclusive of streets, shall be devoted to landscaping, unless waived by the Commission.
- (xiv) Proposals for sewers, water, gas, electricity and storm drainage and the necessary easements for these utilities.

(xv) Proposals for control of storm water runoff.

(xvi) A fifty dollar (50) application fee must be paid to City Controller for the processing of this development plan.

(xvii) The Commission shall determine the location and type of all additional sidewalks.

c If the Commission approves the preliminary development plan, the final development plan shall be submitted to the Commission twenty-one (21) days prior to their next scheduled meeting and include the original tracing, five (5) prints and the following additional information and supporting data:

(i) Five (5) sets of improvement plans to be distributed to the Street Engineer, Water Engineer and Sewer Engineer and drawn in compliance with the Fort Wayne Board of Public Works Specifications.

(ii) Existing contours at two (2) foot intervals with spot elevations of finished grade and directions of storm water runoff.

(iii) To dedicate the streets and easements within this development plan, the following should be added:

(a) Name of Plat

(b) Street name assigned to streets to be dedicated and defining of streets or drives to remain private.

(c) Certification by land surveyor registered by the State of Indiana.

(d) Lot lines and dimensions.

(e) Execution and notary by owners of land.

(f) Instrument of approval for signatures of governing bodies.

(g) Private restrictive covenants.

(h) Statement dedicating streets and easements to the City of Fort Wayne.

E. "B1" District - Limited Business

The "B1" District classification is further divided into "B1A" District and "B1B" District as follows, both of which are included where reference is made to a "B1" District. All areas designated as "B1" Districts on the Zoning Map shall be subject to the provisions as to "B1B" Districts until the Zoning Map is amended to designate any area as "B1A".

"B1A" District

(1) All uses permitted in an "R3" District or which the Board of Zoning Appeals may permit as special uses in an "R3" District:

- (2) Agriculture
- (3) Public Parking Area
- (4) Taxi Station
- (5) Travel Bureau
- (6) Hat Cleaning and Repair Shop
- (7) Self-Service Laundry or Agency
- (8) Shoe Repair Shop or Shoe Shining
- (9) Tailor
- (10) Phonograph and Record Shop
- (11) Photographic Supply Shop or Studio
- (12) Bakery Goods Store
- (13) Confectionary, Ice Cream, or Candy Store
- (14) Delicatessen
- (15) Fruit or Vegetable Store
- (16) Grocery Store
- (17) Meat Market
- (18) Super Market
- (19) Tea Room
- (20) Beauty Parlor
- (21) Barber Shop
- (22) Cosmetics Store
- (23) Book Store
- (24) Cigar Store
- (25) Drug Store
- (26) Dry Goods Store
- (27) Gift Shop
- (28) Hardware Store
- (29) Garden Equipment Supply Store
- (30) Haberdashery

- (31) Hobby Shop
 - (32) Jewelry Store, including Clock or Watch Repair
 - (33) Leather Goods or Luggage Store
 - (34) Millinery Shop
 - (35) Notion Store
 - (36) Optician or Optometrist Office
 - (37) Paint Store
 - (38) Ready-To-Wear Shop
 - (39) Retail Florist, including Greenhouse of less than 1,000 square feet of ground floor area.
 - (40) Shoe Store
 - (41) Sporting Goods Store
 - (42) Stationery or News Dealer Store
 - (43) Toy Shop
 - (44) Variety Store
 - (45) Accessory Building and Use
- "B1B" District
- (1) All uses permitted in an "B1A" District, plus:
 - (2) Service Station
 - (3) Tire and Accessory Store
 - (4) Automobile Washing Station, with provision for off-street parking for sixty (60) or more vehicles.
 - (5) Letter press or Offset or Lithographic Printing Plant.
 - (6) Dressmaking Shop
 - (7) Clothes Cleaning Agency, Pressing Establishment
 - (8) Costume Rental
 - (9) Diaper Service Station
 - (10) Electrical Appliance or Radio Store
 - (11) Household Appliance Store
 - (12) Caterer
 - (13) Package Liquor Store
 - (14) Restaurant, including Tavern and Bar, but not including a drive-in restaurant.

- (15) Masseur Salon
- (16) Orthopedic or Medical Appliance Store
- (17) Public Bath
- (18) Reducing Salon
- (19) Bird Store or Pet Shop
- (20) Department Store
- (21) Furrier, including cold storage of garments
- (22) Interior Decorating or Furniture Store
- (23) Music Conservatory School or Instrument Store
- (24) Bowling Alley
- (25) Billiard and Pool Hall
- (26) Indoor Theatre
- (27) Hotel, Motel, Private Club or Lodge
- (28) Advertising Sign or Billboard, provided that when the same is located within fifty (50) feet of an R District boundary line it shall be affixed to or be a part of a building and not extend over any street line nor project above the roof line.
- (29) Electrical Substations and Telephone Exchanges
- (30) Accessory Building and Use
- (31) Animal Hospital or Kennel catering to household pets, as distinguished from agricultural animals, provided all animal runs are located within an enclosed building, and provided further that all noises and odors be confined to the interior of the building or buildings, and provided further that same not be operated as to constitute a nuisance in the neighborhood.

F. "B2" - "B2A", Regional and Neighborhood Shopping Centers

(1) All "B1" uses specifically listed in Section 14E for "B2" Centers; all of said uses except "B1B" uses (4) (5) 24 25 and 26 for "B2A" Centers; provided, however, that no taverns, bars or agriculture shall be permitted in either a "B2" or a "B2A" Center; subject to compliance with the following requirements:

- a The tract involved shall be of an area of not less than ten (10) acres for a "B2" center, and shall not be less than three (3) acres nor more than ten (10) acres for a "B2A" Center, and lie wholly or partially within 1,400 feet of a point represented by a "B2" or "B2A" symbol on the Zoning Map.
- b The owner or owners of such tract of land shall have prepared a preliminary development plan for the entire such tract.

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
- c Such preliminary development plan shall have received the approval of the Commission.

(2) Plan Commission Procedure:

- a An applicant for a Shopping Center Permit shall apply therefore to the Commission upon forms to be prescribed by the Commission. Such application shall be filed with the Land Use Administrator and transmitted by him to the Commission. Such application shall be accompanied by a preliminary development plan for the entire tract described in said petition, together with the supporting data therefor.

- b Upon receipt of such application and preliminary development plan, the Commission shall review the same and set the same for public hearing. Notice of the hearing shall be the same notice as is required under the laws of the State of Indiana for the adoption of a Master Plan or Amendments thereto under the planning acts of the State of Indiana.

- c The Commission shall consider such objections and shall review the proposed development plan and the supporting data from the basis of the requirements of this chapter. Thereafter, the Commission shall take action as follows:

- (i) If it shall find that such preliminary plans meet the requirements of this chapter, it shall approve the same and so notify the applicant. The applicant shall within 180 days submit to the Commission his final plan which shall be amended, approved or disapproved by the Commission within 60 days of its submission.

- (ii) If it finds that upon said plan being amended, altered and changed as specified by the Commission, it will meet the requirements of this Chapter, it shall so notify the applicant, and thereupon the applicant shall prepare and file with the Commission another preliminary development plan and supporting data incorporating such specified changes. Upon the filing of the amended development plan, complying with the required amendments of the Commission shall approve the same and so notify the Zoning Enforcement Officer.

(iii) If it shall find that such plan does not comply with the requirements of this Chapter, and is not susceptible of alteration, change or amendment to meet such requirements, the Commission will disapprove same.

(iv) Within 180 days after approval of the preliminary plan, developer shall file final plan, which shall be approved by the Commission within 60 days after filing.

(v) If either a preliminary plan or final plan is not approved in 60 days after a written demand by developer to approve or disapprove same, it shall be deemed denied and an appeal lie by writ of certiorari.

(3) Development Plan Requirements:

In determining its approval or disapproval of a proposed development plan and supporting data, the Commission shall be governed by the following:

a The area to be occupied by the buildings in this district shall be twenty-five (25) percent or less of the net area of the land described in the petition. Also, ten (10) percent of the area dedicated to open space shall be set aside for planting of trees, ground cover, shrubs, and other landscaping material, which landscaping plan shall be explained in detail on said final plan.

b The location of the shopping center shall be on property which has an acceptable relationship to major thoroughfares. The plans for the proposed shopping center must possess a unified and organized arrangement of buildings and service facilities, which shall have a functional relationship to the property comprising the plan development and the uses of the property immediately adjacent to the proposed development. In exercising its jurisdiction, the Plan Commission shall have the authority to restrict the size, height, and relationship of one building to another within the center and architecture and actual design so long as these elements are directly related to the health, safety, welfare and morals of the community.

c (i) The preliminary plat shall indicate the legal description of land for which the permit is sought.

(ii) The general location, general size and estimated classification of land use of buildings and structures.

(iii) The general nature of the operations involved in and connected with such shopping center and general layout, including the location, approximate size, arrangement and capacity of all areas to be used for vehicular access, parking, loading, and unloading and the relationship to streets or an artery giving access to said center.

(iv) Indication of the present and proposed sewers, water service and storm drainage.

(v) Area to be planted, shrubbed or otherwise landscaped.

(4) Issuance of Permit:

The Zoning Enforcement Officer shall issue an improvement location permit for a shopping center as herein defined only following receipt of notice from the Plan Commission that the final development plan has been approved by the Plan Commission.

(5) Construction of Improvement under permit:

Revocation of Permit:

Any person to whom is issued an Improvement Location Permit pursuant to Sub-section (4) above, who fails to commence construction of the shopping center within twenty-four (24) months after such permit is issued or who fails to carry to completion thirty (30) percent of the total buildings as authorized by said permit within three (3) years after said permit is issued, or within one (1) year after such construction is begun, whichever is later, shall be subject to the following penalties:

a If after public hearing the Commission finds that no substantial work has been commenced on said shopping center according to the development plan as finally approved by the Commission as called for in the Improvement Location Permit within three (3) years after said permit is granted, it shall be revoked by said Commission.

b If the plan is not completed as required by this Sub-section, failure to complete said plan shall be considered a breach of the zoning laws and subject to the penalty called for in Chapter 33, Section 26A.

c The Commission may, after investigation, seek to enjoin the operation of said shopping center if a substantial compliance with said plan has not been achieved in the time limit as herein set forth.

(6) Permits:

a Not more than one Improvement Location Permit for each shopping center district

may be issued and outstanding at any one time.

b Amendments to Development Plan:

(i) The holder of a shopping center district Improvement Location Permit may apply to the Commission at any time for an alteration, change, amendment or extension of the development plan upon which such permit is based.

(ii) If an application shows that additional land is to be improved or used in connection with such shopping center permit, then the Commission shall proceed as in the case of original application for a shopping center Improvement Location Permit.

(iii) If no additional land is embraced in the application for alteration, change, amendment or extension, then the Commission shall be empowered to pass on such matters without requiring a public hearing thereon.

(iv) In the event the Commission shall approve and order such development plan changed, altered, amended or extended, it shall so notify the Zoning Enforcement Officer, and he shall issue an amended Improvement Location Permit accordingly.

G. "B3A" and "B3B" District - General Business

Districts, plus: (1) All Uses Permitted in the "B1A" and "B1B"

the following: (2) Automotive Service, including but not limited to

a Automobile Repair or Body Shop

b Automobile Showroom

c Battery Repair Shop

d Bicycle Repair Shop

e Motorcycle Shop

f Public Garage

g Trailer or Mobile Home Sales Lot

h Used Car Sales Lot

(3) General Retail Service, including but not limited to the following:

- 1 a Antique Shop
2 b Art Store or Art Studio
3 c Boat Showroom
4 d Coin or Philatelic Store
5 e House Accessory Display or Sales Store
6 f Pawnshop
7 g Picture Framing Shop
8 h Retail Feed Store
9 i Second Hand Store or Rummage Shop
10 j Taxidermist

11 (4) Recreational Enterprise, including but not
12 limited to the following:

- 13 a Dance Hall or Studio
14 b Night Club
15 c Shooting Gallery
16 d Penny Arcade
17 e Skating Rink
18 f Boxing Club or Gymnasium

19 (5) Business or Trade School

20 (6) Motor Bus or Railroad Passenger Station

21 (7) Repair and Service Establishment, including but
22 not limited to the following:

- 23 a Cabinet or Carpenter Shop
24 b Exterminating Shop
25 c Glass Cutting or Glazing Shop
26 d Laundry or Cleaning Plant
27 e Plumbing, Heating, Air Conditioning or
28 Electrical Service Shop
29 f Sheet Metal Shop
30 g Sign Painting Shop
31 h Silver Plating or Repair Shop
32 i Upholstery Shop
j Window Blind Sales or Repair Shop

- 1 k Welding Shop
- 2 (8) Rescue or Revival Mission
- 3 (9) Accessory Building and Use
- 4 H. "B4" District - Roadside Business
- 5 (1) All Uses Permitted in the "B3A" and "B3B" Dis-
- 6 tricts, Plus:
- 7 (2) Drive-In Establishment, including but not
- 8 limited to the following:
- 9 a Agricultural Implement Sales or Service
- 10 Store
- 11 b Archery, Golf and Similar Range
- 12 c Auction Hall
- 13 d Drive-In Restaurant as defined as follows:
- 14 (i) Any eating establishment with more
- 15 than twenty-five percent (25%) of
- 16 the gross floor area devoted to
- 17 kitchen and cold storage space, or
- 18 (ii) Any eating establishment the plan
- 19 for which evidences space provision
- 20 or appurtenances necessary for food
- 21 or drink consumption outside the
- 22 restaurant building either on the
- 23 premises or on public ways, or
- 24 (iii) Any eating establishment where more
- 25 than ten percent (10%) of the food
- 26 and drink sold is actually carried
- 27 out of the restaurant building,
- 28 except food and drink packaged for
- 29 home consumption.
- 30 e Drive-In Theatre
- 31 f Fruit and Vegetable Stand
- 32 g Ice Vending Station
- h Pottery or Souvenir Shop
- i Refreshment Stand
- (3) Amusement Enterprise, including but not limited
- to the following:
- a Children's Amusement Park
- b Miniature Golf Course
- c Miniature Railroad
- d Pony Riding Ring

- 1
2
3
4
5 following:
6
7
8
9
10
11
12
13
14
15
16 to the following:
17
18
19
20
21
22
23
24
25 Station
26
27
28
29
30
31
32
- e Race Track
 - f Riding Academy or Stable
 - g Skating Rink
 - (4) Other Services, including but not limited to the
 - a Animal Hospital or Kennel utilizing enclosed or outside animal runs.
 - b Bottled Gas Service
 - c Camp Ground
 - d Wholesale Florist, Greenhouse
 - e Light Equipment Rental Service
 - f Live Bait Stand
 - (5) Accessory Building and Use
 - I. "M1" District - Light Industrial
 - (1) All Uses Permitted in the "B4" District, Plus:
 - (2) Other Commercial Uses, including but not limited
 - a Bottling Works
 - b Building Material Sales Yard (excluding concrete mixing)
 - c Chick Hatchery
 - d Road or Building Contractor's Equipment Storage Yard
 - e Sales and Rental of Road or Building Contractor's Equipment
 - f Public Utility Service Yard
 - g Electrical Receiving or Transforming
 - h Draying, Freighting or Trucking Yard or Terminal
 - i Feed or Grain Storage
 - j Fuel Yard; including bulk storage of petroleum products for local distribution, as distinguished from a petroleum products terminal for extensive storage and regional distribution purposes.
 - k Ice Manufacture or Cold Storage

- l Experimental or Testing Laboratory
- m Printing Plant, including letterpress or offset or lithographic
- n Poultry Dressing
- o Warehousing, Wholesale Merchandise
- p Storage (excluding auto wrecking, junk or scrap materials)
- q Wholesale Food Market

(3) Any Use Permitted in an "M2" District, provided that such use including all accessory and incidental uses, does not occupy an area in excess of 15,000 square feet, and provided further, that all smoke, dust, dirt, toxic gases and fumes or noxious odor produced upon the premises, is confined thereto.

(4) Accessory Building and Use

J. "M2" District - General Industrial

(1) All Uses Permitted in an "M1" District, provided that no building used for dwelling purposes shall be permitted except within two hundred (200) feet of an abutting "R" District.

(2) Fabricating, Manufacturing and Processing Industries, provided the same conform to the following requirements:

- a (Enclosed Buildings) All operations are conducted and all materials and products are stored within enclosed buildings.
- b (Minimum Distance) The minimum distance between any boundary line of an "R" District, and,
 - (i) A building or structure is fifty (50) feet;
 - (ii) A parking area used by passenger vehicles is fifteen (15) feet;
 - (iii) A driveway, parking area or loading dock used by trucks, tractors, semi-trailers or trailers is one hundred and fifty (150) feet;
 - (iv) A railroad switching track or spur track is three hundred (300) feet;
- c (Smoke) No smoke is emitted of a density greater than No. 1 according to the Ringlemann's Scale, except that smoke of a density not in excess of No. 2 of the Ringlemann's Scale shall be permitted for a period not in excess of six (6) minutes in any hour.
- d (Fly Ash) No particles from any flue or smokestack exceeds 0.2 grains per cubic foot of flue gas at a stack temperature of 500° Fahrenheit.

- e (Dust) All walks, driveways and parking areas are dustproofed.
- f (Dust) No dust of any kind produced by the industrial operations is permitted to escape beyond the confines of the building in which it is produced
- g (Odor) No noxious odor of any kind is permitted to extend beyond the lot lines. Tanneries, abattoirs, glue factories, oil refineries, soap factories, artificial gas manufacture, rubber manufacture, fertilizer manufacture and similar industries shall present detailed plans for elimination of noxious odors before a permit will be granted.
- h (Gases and Fumes) No gases or fumes toxic to persons or injurious to property are permitted to escape beyond the building in which it occurs.
- i (Glare) No glare may be seen from any street or any "R" or "B" District.

(3) Accessory Building and Use

K. "M3" District - Heavy Industrial

(1) All Uses Permitted in an "M2" District, except that a building or use providing dwelling units shall not be permitted.

(2) Fabricating, Manufacturing, Processing, Extraction, Heavy Repair and Dismantling Industries, including open land operations provided the same conform to the following requirements:

- a (Smoke) No smoke is emitted of a density greater than No. 2 according to the Ringlemann's Scale, except that smoke of a greater density shall be permitted for a period not in excess of six (6) minutes in any one hour.
- b (Fly Ash) No particles from any flue or smokestack exceeds 0.3 grains per cubic foot of flue gas at a stack temperature of 500° Fahrenheit.
- c (Gases or Fumes) No gases or fumes toxic to persons or injurious to property are permitted to escape beyond the confines of the building in which it occurs.

(3) Ready-Mix Concrete Plant or Asphalt Plant

(4) Accessory Building and Use

L. "IA" District - Interchange Access District

(1) An Interchange Access District is not a predetermined area with fixed boundaries within which certain uses are permitted and all other uses prohibited. It is a center which may be established upon application in each case within any district. Until it is so esta-

1 blished, no use permitted in any district is prohibited. It may be so
2 established only with reference to the location of an "IA" District Symbol
3 previously established by amendment of the Zoning Maps referred to in Sec-
4 tion 9 of this Chapter, but the establishment of such symbol does not estab-
lish an Interchange Access District or in any way affect existing zoning
districts.

5 (2) The following are uses which may be permitted in
6 the "IA" District; when such a District has been established in each case as
herein provided:

- 7 a Tourist Home; Lodging Home
- 8 b Public Park and Public Information Center
- 9 c Public Parking Area
- 10 d Service Station and Accessory Store; Car
11 Wash; Light Automobile Repair, as permit-
ted under Subsection E(3) (uii).
- 12 e Delicatessen
- 13 f Restaurant, exclusive of curb service and
consumption on exterior premises.
- 14 g Public Bath
- 15 h Drug Store
- 16 i Hotel or Motel as regulated by Section 14

17 All subject to compliance with the following
18 requirements:

- 19 (i) The tract involved shall be of an
20 area of not less than three (3)
21 acres nor more than ten (10) acres
22 and lie wholly or partially within
23 three-quarters (3/4) of a mile of a
24 point represented by an "IA" Dis-
25 trict Symbol shown on the Zoning
26 Map.
- 27 (ii) The owner or owners of such tract of
28 land shall have submitted a preli-
29 minary development plan for the
30 entire such tract.
- 31 (iii) Such preliminary development plan
32 shall have received the approval of
the City Plan Commission.

(3) Plan Commission Procedure:

- 33 a An applicant for an interchange access
34 district permit shall apply therefore to
35 the Commission upon forms to be prescribed
36 by the Commission. Such application shall
37 be filed with the Plan Commission. Such
38 application shall be accompanied by a
39 preliminary development plan for the
40 entire tract, described in said petition,
41 together with supporting data therefore.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

b Upon receipt of such application and preliminary development plan, the Commission shall review the same and set the same for public hearing. Notice of the hearing shall be the same notice as is required under the laws of the State of Indiana for the adoption of a Master Plan or amendments thereto under the Planning Acts of the State of Indiana.

c The Commission shall consider such objections and shall review the proposed development plan and supporting data on the basis of the requirements of this Chapter. Thereafter, the Commission shall take action as follows:

(i) If it shall find that such preliminary plan meets the requirements of this Chapter, it shall approve the same and so notify the applicant. The applicant shall, within one hundred eighty (180) days, submit to the Commission his final plan which shall be amended, approved, or disapproved by the Commission within sixty (60) days of its submission.

(ii) If it finds that upon said plan being amended, altered, or changed as specified by the Commission, it will meet the requirements of this Chapter, it shall so notify the applicant and thereupon the applicant shall prepare and file with the Commission another preliminary plan and its supporting data incorporating such specified changes. Upon the filing of the amended development plan complying with the required amendments of the Commission, the Commission shall approve the same and so notify the Zoning Enforcement Officer.

(iii) If it shall find that such plan does not comply with the requirements of this Chapter and is not susceptible of alteration, change, or amendment to meet such requirements, the Commission shall disapprove same.

(iv) Within one hundred eighty (180) days after approval of the preliminary plan, the developer shall file a final plan which shall be reviewed by the Plan Commission within sixty (60) days after filing.

(v) If either a preliminary or final is not approved in sixty (60) days after the written demand by developer to approve or disapprove same, it shall be deemed denied and an appeal lie by writ of certiorari.

1
2 (4) Development Plan Requirements:

3 In determining its approval or disapproval of a
4 proposed development plan and supporting data, the Commission shall be
5 governed by the following:

6 a The area to be occupied by the buildings
7 in this district shall be twenty-five
8 percent (25%) or less of the net area of
9 land described in the petition. Also, a
10 minimum of ten percent (10%) of the area
11 dedicated to open space, exclusive of
12 parking, shall be set aside for planting
13 of trees, ground cover, shrubs, and other
14 landscaping material, which landscaping
15 plan shall be explained in detail on said
16 final plan. Also, the landscaping shall
17 be completed in proportion to the square
18 footage of buildings under roof as related
19 to the total project area.

20 b The location of the Interchange Access
21 District shall be on property which has an
22 acceptable relationship to major streets,
23 highway,s and thoroughfares which will
24 serve the area. The plans for the pro-
25 posed Interchange Access District must
26 possess a unified and organized arrange-
27 ment of buildings and service facilities
28 which shall have a functional relationship
29 to the property comprising the planned
30 development and the uses of the property
31 adjacent to the proposed development. In
32 exercising its jurisdiction, the Plan
Commission shall have the authority to
restrict the size, height, and relation-
ship of one building to another within the
area involved, and architecture and actual
design so long as these elements are
directly related to the health, safety,
convenience, welfare and morals of the
community.

33 c (i) The preliminary plan shall indicate
34 the legal description of the land
35 for which the permit is sought.

36 (ii) The general location, general size
37 and classification of land use of
38 buildings and structures.

39 (iii) The general nature of the operations
40 involved in and connected with such
41 Interchange Access District and
42 general layout, including the loca-
43 tion, approximate size, arrangement
44 and capacity of all areas to be used
45 for vehicular access, parking,
46 loading and unloading, and the
47 relationship to streets or an artery
48 giving access to said district.

49 (iv) Indication of the present and pro-
50 posed sewers, water service, storm
51 drainage.

(v) Area to be planted, shrubbed or otherwise landscaped.

d In reviewing said plan for an Interchange Access District, the Plan Commission shall have the right to require such design standards as service roads, setbacks, dedication of public right-of-way for street and highway purposes, and other design factors related to vehicular access so long as said conditions are directly related to the health, safety, convenience, welfare and morals of the general public.

e The Plan Commission shall have the authority to permit an Interchange Access District for areas less than three (3) acres providing the developer can show that due to natural physical characteristics or barriers, it is impossible to assemble more than the three (3) acres as required by previous section of this ordinance.

(5) Issuance of Permits:

The Zoning Enforcement Officer shall issue an improvement location permit for a use contained within an interchange district as herein defined only following receipt of notice from the Plan Commission that the final development plan has been approved by the Commission. No certificate of occupancy permit shall be issued by the Zoning Enforcement Officer until all buildings, landscaping, parking lots, driveways, sidewalks, etc., are installed in accordance with the approved plan.

(6) Construction of Improvement Under Permit:

Revocation of Permit:

Any person to whom is issued an Improvement Location Permit pursuant to Paragraph (3), Subsection "L," Section 14, who fails to commence construction of the Interchange Access District development within twenty-four (24) months after such permit is issued, or who fails to carry to completion thirty (30) percent of the total buildings and landscaping as authorized by said permit within three (3) years after said permit is issued, or within one (1) year after such construction is begun, whichever is later, shall be subject to the following penalties:

a If after public hearing and proper notice thereof the Commission finds that no substantial work has been commenced on said Interchange Access District according to the development plan as finally approved by the Commission as called for in the Improvement Location Permit within three (3) years after said permit is granted, it shall be revoked by said Commission.

b If the plan is not completed as required by this Subsection failure to complete said plan shall be considered a breach of the zoning laws and subject to the penalty called for in Section 25A of this Chapter.

- 1 c The Zoning Enforcement Officer may, after
2 investigation, seek to enjoin the opera-
3 tion of said Interchange Access District
4 if a substantial compliance with said plan
has not been achieved in the time limit as
herein set forth.

5 (7) Permits:

- 6 a Not more than one Improvement Location
7 Permit for each Interchange Access Dis-
8 trict may be issued and outstanding at any
one time.

9 b Amendments to Development Plan:

- 10 (i) The holder of an Interchange Access
11 District Improvement Location Permit
12 may apply to the Commission at any
13 time for an alteration, change,
14 amendment or extension of the
15 development plan upon which such
16 permit is based.

- 17 (ii) If an application shows that addi-
18 tional land is to be improved or
19 used in connection with such Inter-
20 change Access District Permit then
21 the Commission shall proceed as in
22 the case of original application for
23 an Interchange Access District
24 Improvement Location Permit.

- 25 (iii) If no additional land is embraced in
26 the application for alteration,
27 change, amendment or extension, then
28 the Commission shall be empowered to
29 pass on such matters without
30 requiring a public hearing thereon.

- 31 (iv) In the event the Commission shall
approve and order such development
plan changed, altered, amended or
extended, it shall so notify the
Zoning Enforcement Officer and he
shall issue an amended Improvement
Location Permit accordingly.

32 M. "MHP" District - Mobile Home Park District

(1) Mobile Home Park Districts may be established by the Common Council on the initiative of the Plan Commission in accordance with a comprehensive plan for the entire area within its jurisdiction, after public hearing, within or including any other zoning district under this Chapter. Such Mobile Home Park Districts shall remain subject to the restrictions of such other districts except as to any part actually occupied by a Mobile Home Park after application and approval as herein provided. Until such districts have been so established initially on the initiative of the Plan Commission, no petitions for such zoning or applications for approval of Mobile Home Parks shall be received.

(2) The additional permitted use in a Mobile Home Park District is Mobile Home Parks as defined in Section 3, and subject to the procedure and approval as herein provided.

1 (3) After Mobile Home Park Districts have been esta-
2 blished, applications for approval of development plans for a Mobile Home
3 Park may be filed with the Plan Commission, and its procedure thereon shall
4 be as provided for Interchange Access Districts under Section 14L (3) of
5 this Chapter as added by General Ordinance No. G-21-65.

6 (4) Development Plan Requirements:

7 In determining its approval or disapproval of a
8 proposed development plan and supporting data, the Commission shall be
9 governed by the following:

- 10 a The minimum area shall be eight (8) acres.
- 11 b The owner-developer shall submit a
12 development plan showing the name of the
13 mobile home park; its location by town-
14 ship, section, or other legal description,
15 the name and address of the developer;
16 scale; date; north arrow; location, widths
17 and names of all existing streets or
18 public ways, railroads rights-of-way,
19 utility easements, parks and other public
20 open spaces, existing buildings, and
21 structures within and adjacent to the
22 tract; adjoining boundary lines of all
23 adjacent land uses describing the land use
24 or some other means of identification; the
25 layout of proposed streets, driveways,
26 alleys, and crosswalks within the proposed
27 mobile home park; the layout of the pro-
28 posed lots, their numbers and dimensions;
29 the location of parcels of land intended
30 for public use; the mobile home limit
31 lines within each of the lots; contours,
32 both existing and proposed, at intervals
of not more than five (5) feet; location
and type of all utility easements on the
site or immediately adjacent to it; such
other data as the Commission may by rule
require.
- c All lots within the park shall be a mini-
mum of forth (40) feet wide measured along
a perpendicular to the side lot line, in
the case of an irregular shaped lot the
average lot width shall be at least forty
(40) feet; minimum lot area shall be 3,000
square feet exclusive of the roadway
drives and other open public spaces, but
may include offstreet parking spaces;
minimum side yard of six (6) feet and
minimum rear yard of eight (8) feet; in no
case shall a mobile home be located nearer
than fifteen (15) feet from the nearest
boundary line of the mobile home park; in
no instance shall a mobile home be located
nearer than six (6) feet from the edge of
the street improvements.
- d Minimum street or driveway improvements
within the mobile home park where off-
street parking is provided - 30 feet;
where no off-street parking is provided -
36 feet.

- e Streets shall be surfaced and improved to the standards and specifications of the Fort Wayne Board of Public Works.
- f At the time of application, a typical cross-section of any and all streets in the area must be submitted to the Board of Public Works for their approval.
- g Parking - Parking spaces shall be provided at the rate of two (2) parking spaces per lot.
- h Sidewalks, thirty (30) inches in minimum width, shall be provided and shall be so designed to meet the standards of the Fort Wayne Board of Public Works.
- i Street lighting shall be provided in accordance with the standards of the Fort Wayne Board of Public Works and the light value on all occupied streets shall be a minimum of 1/10th foot candle.
- j Screening - Screening of a type and design at the discretion of the Plan Commission shall be provided where any mobile home court is bounded by a public street, highway, or developed residential area.
- k Recreation area sufficient in size and activity shall be provided in each mobile home court. The size of the activity shall be at the discretion of the Plan Commission at the time of approval.
- l All sewer and water service shall be installed by the developer and shall conform to the minimum standards of the Fort Wayne Board of Public Works and the Health Department having jurisdiction.
- m The developer shall provide the Plan Commission with a statement from the school authorities having jurisdiction in the location of the proposed Mobile Home Park that the increased school enrollment, as a result of this mobile home park, will not cause undue hardship on the school required to serve the area involved.
- n All driveways, access roads, streets and lanes within the mobile home park shall be identified by some means so as to avoid confusion on the part of police and emergency equipment when called to a particular location within the mobile home park.
- o In the event the developer proposes to establish driveways or streets within the mobile home park as a public street, the design shall meet the minimum standards as prescribed by the Subdivision Control Ordinance of the City of Fort Wayne.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

p At the time of approval, the developer shall show evidence that all common areas, open spaces, driveways, sidewalks, recreational facilities, and spaces other than the actual trailer lots shall be maintained. This evidence can be in the form of assessment against the lots, a restrictive covenant enforceable by the city or other suitable means of assurance that all public properties will be maintained with the mobile home park.

q The developer shall provide a storage building on each trailer lot consisting of at least 50 square feet of enclosed floor space.

(5) As to Issuance of Permits, Construction of Improvements under Permits, Revocation of Permits and Amendments to Development Plan, the provisions for Interchange Access Districts under Section 14L (5), (6) and (7) of this Chapter as added by General Ordinance No. G-21-65 shall be applicable.

N. Planned Unit Development. (G-100-70, 10/27/70)

(1) Intent. Ingenuity, imagination and design efforts on the part of builders, architects, site planners and developers can produce Planned Unit Developments which are in keeping with overall land use intensity and open space objective of the Master Plan while departing from the strict application of use, setback, height and minimum lot size requirements of several zones. The intent of this section is to permit such flexibility and provide performance criteria for Planned Unit Development which; permit a creative approach to the development of residential land; accomplish a more desirable environment than would be possible through the strict application of minimum requirements of the zoning code and subdivision code; provide for an efficient use of land, resulting in smaller networks of utilities and streets and thereby lower housing costs; enhance the appearance of neighborhoods through preservation of natural features, the provision of underground utilities where feasible and the provision of recreation areas and open space in excess of existing zoning and subdivision requirements; provide an opportunity for new approaches to living environment; and provide an environment of stable character compatible with surrounding residential areas.

(2) Voluntary alternate procedure: The use of the Planned Unit Development procedures contained herein is not mandatory for the development of any parcel of ground. The intent and purpose of this process is to provide a voluntary alternate procedure which maximizes the utilization of land primarily for the benefit, use, and enjoyment of the future residents of that area and the existing residents of the City of Fort Wayne and its environs. In a Planned Unit Development open space and common recreational areas and facilities are the environment and livability benefits furnished to the resident and community in lieu of large individual lots.

(3) Permitted Use. Pursuant to Planning Act of 1947, Chapter 174, and subject to the regulations, standards, and conditions set forth herein, Planned Unit Developments shall be permitted in Fort Wayne's planning jurisdiction upon obtaining final development plan approval from the Plan Commission. A special exception certification for a Planned Unit Development or part thereof may be issued only after (1) final subdivision approval thereof by the Plan Commission, and (2) filing the approved plan in the Office of the Recorder of Allen County.

(4) Location. Planned Unit Developments are permitted only in R1, R2, R3, RA, RB, B1A, B1B, B4 and M1 Zoning Districts.

(5) Principles of Planned Unit Development. The Planned Unit Development is a permitted use designed to provide for developments incorporating a single type or a variety of residential and related uses which are planned and developed as a unit. Such development may consist of individual lots or common building sites. Common land must be an essential and important element of the plan related to effecting the long-term value of the entire development.

(6) Standards and criteria. Subject to the provision set forth herein, Planned Unit Developments are permitted uses on sites consisting of no less than ten (10) contiguous acres unless the Commission and Council permits a lesser acreage because of unusual circumstances.

(7) Uses and Requirements.

a Residential Uses. Permitted land use requirements of the zone within which a Planned Unit Development is located shall apply, with the following exceptions:

(i) Open space reservations may be considered for population density and building intensity increases;

(ii) Permitted types of dwelling units may include single family detached homes, town houses, garden apartments or high-rise apartments;

(iii) Condominium, cooperative individual, municipal or any other type of ownership hereby is permitted.

b Non-residential uses. Non-residential uses, limited to those specifically approved by the Plan Commission are permitted in a Planned Unit Development provided that such uses primarily are for the service and convenience of the residents of the development and further provide that:

(i) No store shall exceed 10,000 square feet of gross floor area; and,

(ii) The total mercantile and office space permitted within a Planned Unit Development shall not exceed forty (40) square feet of gross floor area under roof per dwelling unit in the development, excluding in such computation, buildings used for non-profit educational, recreational or cultural purposes. However, the Commission may exclude mercantile and office space if adequate facilities are proposed or are existing in the area.

c Minimum Requirements.

- (i) Yard, setback, lot size, type of dwelling unit, height, frontage requirements, and use restrictions may be waived for the Planned Unit Development, provided that the spirit and intent of this section are complied with in the total development plan, as determined by the Plan Commission. The Plan Commission may determine that certain setbacks be required within all or a portion of the perimeter of the site and shall exercise ultimate discretion as to whether the total development plan does comply with the spirit and intent of this section.
- (ii) Every dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
- (iii) The approximate location of structures, shown on the conceptual development plan, shall be so arranged as not to be detrimental to existing or other proposed structures or to the development of the neighborhood.

d Privacy. Each development shall provide reasonable visual and acoustical privacy for dwelling units. Fences, insulation, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views, or uses and reduction of noise. Highrise buildings, if permitted, shall be located within a Planned Unit Development in such a way as to dissipate any adverse impact on adjoining low-rise buildings and shall not invade the privacy of the occupants of such low-rise buildings.

e Off-Street Parking. Parking convenient to all dwelling units and other uses, shall be provided pursuant to the minimum requirements of the Rating Chart I of this ordinance. Where appropriate, common driveways, parking areas, walks and steps shall be provided, maintained and lighted for night use. Screening of parking and service areas may be required through ample use of trees, shrubs, hedges and screening walls.

f Perimeter Requirements. If topographical or other barriers within two hundred (200) feet of the perimeter of the development

do not provide reasonable privacy for existing uses adjacent to the development, the Plan Commission shall impose either of the following requirements, or both:

- (i) Structures located on the perimeter of the development must be set back in accordance with the provisions of the zoning ordinance controlling the area within which the development is situated; and,
- (ii) Structures located on the perimeter of the development must be well screened in a manner which is approved by the Commission.

g Interior Streets. The minimum roadway width of two-way streets shall be twenty-seven (27) feet. Such streets shall be paved according to city specifications for residential streets and maintained in good condition and lighted at night. The Plan Commission shall determine streets that must be dedicated so that proper vehicular traffic circulation is achieved between developments. No angle parking shall be permitted on any street.

h Sidewalks. Sidewalks shall be provided as deemed necessary by the Plan Commission.

i Swimming Pools. All swimming pools within a Planned Unit Development shall comply with the provisions of Chapter 37 of the Municipal Code.

(8) Density. Density (Dwelling units per acre) may be increased if the character of the development and/or amenities incorporated in the development warrant such increases provided that in no case shall the density increase cause the density of the Planned Unit Development to be more than thirty-three percent (33%) in excess of the density which would be achieved under standard zoning regulations.

The Plan Commission shall determine the density which may be permitted within the Planned Unit Development by using the land use intensity Rating Chart I as a guide and modified by any increases in density permitted under Paragraph 8 B of this ordinance. Any additional density allowed shall be at the discretion of the Commission.

a Planned Unit Development in more than one zone. If the Planned Unit Development is in more than one zone, the number of allowable dwelling units must be separately calculated for each portion of the planned development that is in a separate zone, and must then be combined to determine the number of dwelling units allowable in the entire Planned Unit Development.

b Density increases. Density increase shall be governed by the precepts listed below, which are to be treated as additive, and not compounded:

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
- (i) Open space reservation shall be considered for density increases according to the following provision:

For improved and unimproved common open space

- (a) The first acre of common open space per 20 acres gross, if improved, permits a maximum increase of eight (8) percent; if first acre of common open space is unimproved, six (6) percent is allowed.
 - (b) The second acre of common open space per 20 acres of gross, if improved, permits a maximum increase of four (4) percent; if unimproved, three (3) percent is allowed.
 - (c) Each additional acre of common open space per 20 acres of gross, if improved, permits a maximum increase of three (3) percent; if unimproved, two (2) percent is allowed.
- (ii) Character, identify and architectural and siting variation incorporated in a development shall be considered cause for density increases not to exceed fifteen (15) percent, provided these factors make a substantial contribution to the objectives of a Planned Unit Development. The degree of districtiveness and the desirable variation achieved shall govern the amount of density increase which the Plan Commission may approve. Such variations may include, but are not limited to the following:
 - (a) Landscaping (a maximum increase of five (5) percent); streetscaping; open spaces and plazas; use of existing landscape; pedestrian way treatment; and recreational areas.
 - (b) Siting (a maximum increase of five (5) percent); visual focal points; use of existing physical features such as topography; view; sun and wind orientation; circulation pattern, physical environment; variation in building setbacks; and building groups (such as clustering).

- (c) Design features (a maximum increase of five (5) percent); street sections; architectural styles; harmonious use of materials; parking areas broken by landscape features; and varied use of house types.

c When density increase is not permitted.

If the Plan Commission finds that any of the following conditions would be created by an increase in density permitted in subsection paragraph 8B, it may either deny any application for increase in density, or, limit the increase in density by an amount sufficient to avoid the creation of any of the following conditions:

- (i) Inconvenient or unsafe access of the development.
- (ii) Traffic congestion in streets adjoining the development.
- (iii) An excessive burden imposed on parks, recreational areas, schools, and other public facilities which serve or are proposed to serve the development.

d Notification of density increase. The developer will be informed at the time of the approval of the Planned Unit Development, if the Commission should grant additional density.

(9) Open Spaces. "Common Open Space" is defined as a parcel or parcels of land or an area of water, or a combination of land and water, designed and intended for the use and enjoyment of residents of the Planned Unit Development, or of the general public. Improved common open spaces may contain accessory structures and improvements necessary or desirable for religious, educational, non-commercial; recreational areas are encouraged, such as children's informal play in close proximity to individual dwelling units, the concentration of dwelling; formal parks, picnic areas, playgrounds; and scenic open areas and communal non-commercial recreational facilities. The Plan Commission shall have sole discretion as in determining if open space is improved or unimproved space based upon plans submitted by developer.

a Conveyance and maintenance of common open space. All common open space, shown on the final development plan and recorded in the office of the Recorder of Allen County must be conveyed in accordance with one of the following methods:

- (i) By dedication to the city department responsible for maintenance of the parcel as municipally owned and maintained common open space, provided the parcel is acceptable to that city department; or

(ii) By leasing or conveying title (including beneficial ownership) to a corporation, association or other legal entity. The terms of such lease or other instrument of conveyance must include provision, suitable to the Plan Commission for guaranteeing: (A) the continued use of such land for the intended purpose; (B) continuity or proper maintenance for those portions of the open space land requiring maintenance; (C) when appropriate, the availability of funds required for such maintenance; (D) adequate insurance protection; and (E) recovery for loss sustained by casualty, condemnation or otherwise.

In any event, the developer must file in the office of the City Plan Commission, at the time the approved final subdivision plat is filed, legal documents which will produce the aforesaid guarantees and, in particular, will provide a method for restricting the use of common open spaces for the designated purposes.

b Utility and continuity for common use.
All common open space proposed for dedication to the City of Fort Wayne must be acceptable to it with regard to the size, shape, location and improvement. In addition, the applicant must show that the dedication of such areas as common open space will be of benefit to the general public of Fort Wayne and its environs.

(10) Improvements.

a Circulation facilities. The arrangement of public and common ways for pedestrian and vehicular circulation in relation to other existing or planned streets in the area and to the Master Plan, together with provisions for street improvements, shall be in compliance with standards set forth in subsection paragraph 7 E and paragraph 7 G above and in the Subdivision Control Ordinance. Upon application by developer and good cause shown, the Plan Commission may permit changes or alterations of such standards which are consistent with the spirit and intent of this section.

b Utilities. Whenever reasonably possible, all Planned Unit Developments shall provide for underground installation of utilities (including electricity and telephone) in both public ways and private extensions thereof. Provisions shall be made for acceptable design and construc-

tion of storm sewer facilities including grading, gutters, piping and treatment of turf to handle storm waters, prevent erosion and the formation of dust. Utilities and maintenance of facilities shall be in accordance with the requirements and regulations of the Fort Wayne Board of Public Works. A Planned Unit Development application shall not be approved unless adequate assurance is given that public or quasi-public water and sanitary sewer service will be available, except that upon application by the developer and good cause shown. The Plan Commission may modify or waive this requirement provided such action is consistent with the spirit and intent of this section.

- c Pedestrian circulation. The pedestrian circulation system and its related walkways shall be insulated completely and as reasonably as possible from the vehicular street system in order to provide separation of pedestrian and vehicular movement. This shall include, when deemed to be necessary by the Plan Commission, pedestrian underpass or overpass in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses which generate a considerable amount of pedestrian traffic.

(11) Subdivision review. It is the intent of this ordinance that subdivision review under the Subdivision Control Ordinance be carried out as an integral part of the review of a Planned Unit Development under this section. The plans required under subsection 17 of this ordinance must be submitted in a form which substantially will satisfy requirements of the Subdivision Control Ordinance for the preliminary and final plan approvals. However, if any provisions of this ordinance and the Subdivision Control Ordinance are in conflict, the more restrictive or detailed requirements shall be met, unless specifically waived or altered by the Plan Commission.

It is the intent of this section to permit the submission of final subdivision applications for the whole, a part, or parts of the overall Planned Unit Development.

(12) Procedure. A generalized summary of the steps for consideration and approval of Planned Unit Development and subdivision plans relating thereto is as follows:

- a Pre-application conference or conferences are held with the Director of Planning in order to obtain information and guidance in preparing the Planned Unit Development application.
- b The Planned Unit Development application (conceptual and schematic) with plans and statements is submitted to the Plan Commission and a public hearing is held.

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
- c If the Planned Unit Development plan is approved, the applicant is authorized to proceed with the preparation of the preliminary subdivision application. If the plan is disapproved then the Commission shall state the reasons for the rejection of the plan.
 - d The preliminary subdivision application is filed with the Plan Commission for Commission action.
 - e If the preliminary plan is approved, the final subdivision plan is filed with the Plan Commission. The Commission shall approve, modify and approve, or disapprove the application within sixty (60) days after a complete application is filed.
 - f The applicant is notified of Plan Commission action. Approved subdivision plans shall be recorded as required herein and by the Fort Wayne Subdivision Control Ordinance.
 - g The applicant shall commence construction on the approved subdivision within six (6) months, and begin construction in one (1) year on the approved Planned Unit Development following recordation of approved plans. Upon failure to do so, the Planned Unit Development and approvals are voidable. Work shall not commence on approved commercial or industrial sites until 50% of the Unit Development is completed and occupied.

20 (13) Applicant. Planned Unit Development applica-
21 tions shall be filed in the name or names of the recorded owner or owners of
22 property included in the development, as shown in the Allen County records.
23 However, the applications may be filed by holder(s) of an equitable interest
24 in such property. If recorded title is changed for all or any portions of
such property prior to issuing final P.U.D. approval, the records of the
Plan Commission and related documents shall be amended to reflect such
changes before maps and documents are recorded by the Allen County Recorder,
as provided herein.

25 (14) Pre-application conference. To obtain informa-
26 tion, each applicant shall confer with the Director of Planning and inter-
27 ested department heads in connection with the preparation of the Planned
28 Unit Development application. The general outlines of the proposal,
evidenced schematically by sketch plans, are to be considered before sub-
29 mission of the Planned Unit Development application. Thereafter the Direc-
30 tor of Planning shall furnish the applicant with his written comments
regarding such conference, including appropriate recommendations to inform
and assist the applicant prior to his preparing the components of the Plan-
ned Unit Development application. It is not required that any person
requesting a pre-application conference be an owner or holder of an equit-
able interest in the subject property.

31 (15) Planned Residential Unit Application.

- 32 a All Planned Unit Development plans shall
be submitted to the Plan Commission with

1 an application in the form to be pre-
2 scribed by it. The Plan Commission shall
3 charge for the processing of the applica-
4 tion of the proposed improvements, a fee
5 of One Hundred Dollars (\$100) for each
6 application. This fee shall be in addi-
7 tion to the fee prescribed in the sub-
8 division code.

9 b Within forty (40) days after a complete
10 Planned Unit Development application has
11 been filed with the Plan Commission, the
12 Commission shall hold a public hearing,
13 which shall be construed as satisfying any
14 requirement for a subdivision hearing.

15 c The Plan Commission shall approve, modify
16 and approve, or disapprove any such appli-
17 cation within forty (40) days after the
18 public hearing. The Planned Unit Devel-
19 opment application shall include the
20 following:

21 (i) A declaration by the developer in
22 which there is furnished:

23 (a) An evaluation of the proposed
24 Plan Unit Development,
25 together with the factors con-
26 sidered in the evaluation;

27 (b) A general statement regarding
28 the nature and location of
29 common open space and the
30 means by which the developer
31 will guarantee its continuity
32 and maintenance;

33 (c) The general location and
34 purpose of all nonresidential
35 structures;

36 (d) A general statement indicating
37 the proposed types and loca-
38 tion of dwelling units, the
39 anticipated population density
40 associated with each type; and

41 (e) The method by which utilities
42 will be provided.

43 (ii) Conceptual and schematic plans
44 incorporating the following ele-
45 ments:

46 (a) Those listed in subsection 8
47 hereof:

48 (b) Conceptual plans of the entire
49 site showing:

50 (1) Existing contours accompanied
51 by outline of grading plans.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

- (2) Typical cross-sections.
- (3) Drainage control.
- (4) Conceptual location of all main and accessory structures accompanied by an outline explaining intended heights, coverage and treatment of yards.
- (5) General outline of motor vehicle parking and loading provisions.
- (6) General traffic circulation features, public and private streets, width of right-of-way and roadway, location of vehicular access points thereto.
- (7) Pedestrian circulation features, walks and paved areas.
- (8) Landscaping and forestry features.
- (9) General nature and location of public and private utilities and community facilities and services, including maintenance facilities.
- (10) Recreational and other non-building areas designated.

d Common Open Space Information, including:

- (i) Percentage of acreage of common open space in each part of the development.
- (ii) General nature of common open space use.
- (iii) Topographical factors affecting common open space.

e A schematic plan summarizing:

- (i) Residential densities for each part of the development.
- (ii) Maximum square footage of gross floor area (under roof) of mercantile and office space.
- (iii) Acreage of common open space in each part of the development.

f A document describing the proposed phasing program for the Planned Unit Development for all dwelling units, nondwelling struc-

tures, recreational and other common facilities and open space improvements.

(16) Approval, notice and authority to proceed.

- a Upon approval of the Planned Unit Development application by the Planning Commission the Director of Planning forthwith shall:
 - (i) Furnish the developer with written notice of the approval.
 - (ii) Cause the Planned Unit Development to be noted on the face of the Official Zoning Map of the City of Fort Wayne by outlining the boundaries of land affected thereby.
 - (iii) File in the Commission Office a certified copy of the Planned Unit Development conceptual and schematic plan.
- b The land described in the above notice shall be used only in accordance with the uses and densities shown on the certified Planned Unit Development conceptual and schematic plan, except as provided in subsection 21.
- c When the above procedures have been completed, the developer may proceed with the preparation of the preliminary subdivision application.

(17) Subdivision Processing.

- a Subdivision Plans. Subdivision plans shall be submitted in accordance with the Subdivision Control Ordinance to a scale of 1 inch = 100 feet. Subdivision plans also shall show the following:
 - (i) Preliminary
 - (a) Pedestrian ways for general circulation
 - (b) Outside parking areas
 - (c) Areas to be kept open for community use
 - (d) Parcels for subsequent sale (if any)
 - (e) Streets and easements
 - (ii) Final
 - (a) Exact engineering data on boundaries, streets and ways, easements, parcels for sale

and monuments, in accordance with subdivision ordinance.

(b) Cross reference to recorded Planned Unit Development schematic plan.

(iii) Final subdivision plans may be submitted for the whole Planned Unit Development at one time, or such plans may be submitted for a part or parts of the Planned Unit Development from time to time.

b Documents.

(i) At the time the preliminary subdivision application is filed with the Plan Commission, the developer also shall file:

(a) Project cost estimates for all public improvements in the subdivision plan;

(b) Other statements required by the subdivision ordinance.

(18) Final Approval. Within six (6) months following the approval of the preliminary subdivision plan, the applicant shall file with the Plan Commission a final subdivision plan containing in final form all the information required. Upon written request by the applicant, the Plan Commission, upon showing of good cause by the developer, may extend for six (6) months the period for filing the final subdivision plan. Within sixty (60) days after the complete final subdivision application is filed, with all necessary documents and exhibits, the Plan Commission must approve, approve and modify, or disapprove it.

(19) Recording. Upon approval of the final subdivision application, the Plan Commission shall notify the applicant and thereafter the maps and other related documents shall be recorded in the office of the Allen County Recorder. If the Plan Commission approves the final subdivision application with modifications, the applicant shall cause such modifications to be made and then proceed as above.

(20) Failure to begin Planned Unit Development.

a If no construction has begun in the Planned Unit Development within one (1) year from the approval of the Planned Unit Development and recording of documents, said approval shall lapse and be of no further effect. The Plan Commission, upon showing a good cause by the developer, may extend for periods of one (1) year, the time for beginning construction.

Nothing herein shall be considered as affecting such lapse and revocation if the developer commences construction. If construction commences, the final Planned Unit Development approval may be modified only in accordance with subsection 21 hereafter.

b If the construction of the improvements in any subdivision within a Planned Unit Development has not begun within six (6) months from the date the approved subdivision plan was recorded, said subdivision approval shall lapse and be of no further effect. The Plan Commission, for good cause, may extend for periods of six (6) months the time for beginning construction. Except as provided in subsection A, above, the lapsing of subdivision approval shall not result in the lapsing of a Planned Unit Development approval. Notification by registered mail of such lapse shall be forwarded to the developer.

Improvements are defined as streets, water, sewer and storm drainage.

(21) Revisions of approval final Planned Unit Development plan. The development shall conform to the approved Planned Unit Development plan and the approved final subdivision plan. The applicant, his successors and assigns shall make no alterations, additions or deletions to the Planned Unit Development plan, the related documents, or to the site, except as provided herein. Upon final approval, changes may be made only pursuant to a new submission of a Planned Unit Development application which shall be processed and approved in accordance with this section. The Plan Commission may authorize minor changes, provided that the overall density is not increased, without a new Planned Unit Development application.

(22) Phasing. The establishment of common open spaces and construction of public or common recreational facilities shown on the recorded planned unit development plan together with the construction of other non-residential structures shall proceed substantially in accordance with the phasing program referred to in Section 15, Subsection 6.

After general construction commences, the Director of Planning shall review, at least once every six (6) months, all building permits issued and compare them to the overall development phasing program. If he determines that the rate of construction of residential units or non-residential structures substantially differs from the phasing program, he shall so notify the developer and the Zoning Enforcement Officer, in writing; thereafter the Zoning Enforcement Officer may issue such orders to the developer as he sees fit, and upon continued violation of this subsection may suspend the developer from further construction of dwelling units or non-residential structure until compliance is achieved.

(23) Violation. Whenever the Plan Commission shall find, in the case of any approved Planned Unit Development, that any of the terms, conditions, or restrictions upon which such approval was granted are not being complied with, the Plan Commission may rescind and revoke such approval. Notice thereof shall be given in accordance with subsection 20.

Violation of a Planned Unit Development, as approved, shall constitute a violation of the Zoning Ordinance.

Section 33-15. HEIGHT REQUIREMENTS - ALL DISTRICTS.

A. Except as hereinafter provided, no building or structure shall be erected, altered, enlarged or reconstructed to exceed the height limit established for the district where such building or structure is located, as follows:

<u>District</u>	<u>Maximum Height</u>
R-1, R-2	25 feet
R-A, R-B	35 feet
R-3, B-3-B, B-4	50 feet
B-1-A, B-1-B, B-2, B-2-A, IA	35 feet
B-3-A	400 feet
M-1, M-2, M-3	75 feet

B. Exception to Height Limitations:

(1) In "R1" and "R2" Districts, limiting height not to exceed 25 feet, any permitted structure may be increased in height not to exceed 35 feet, provided the required side yards are increased an additional foot for each 3 feet such structure exceeds 25 feet.

(2) In "RA" and "RB" Districts, limiting height not to exceed 35 feet, any permitted structure may be increased in height not to exceed 45 feet provided the required side yards are increased an additional foot for each 1 foot such structure exceeds 35 feet.

(3) On through lots 150 feet or less in depth, the height of a building may be measured from the adjoining curb level on either street.

(4) On through lots more than 150 feet in depth, the height regulations and basis of height measurements for the street permitting the greater height shall apply to depth of not more than 150 feet from that street.

		One Story Townhouse (or Apt.)	2 Story Detached	2 Story Townhouse	2 Story Apt.	3 Story Apt.	6 Story Apt.
R1	3.5	----	3.5	----	----	----	----
R2	3.5	4.4	3.5	4.4	4.4	----	----
R3	3.5	5.4	3.5	5.4	5.4	5.4	6.0
RA							
RB	3.8	4.8	3.8	4.8	4.8	4.8	----

Note: The land use intensity rating between 3 and 6 stories will be prorated over 6 stories determined by Commission.

B1A, B1B, B3B, B4 and M1 Districts are permitted the same land use intensity as an R3 District.

Land Use Intensity Rating & Ratios Permitted
(Based On Gross Acreage of Tract)

Land Use Intensity Rating	FAR	OSR	RSR	LSR	TCR	OCR
3.3	0.12	6.4	0.22	4.8	2.0	1.8
3.5	0.14	5.45	0.20	4.0	2.0	1.65
3.8	0.18	4.4	0.19	3.0	1.8	1.6
4.0	0.2	3.8	0.18	2.6	1.7	1.5
4.4	0.26	2.8	0.16	1.8	1.4	1.3
4.8	0.34	2.1	0.12	1.3	1.4	1.2
5.4	0.53	1.4	0.12	0.78	1.2	0.96
6.0	0.8	0.88	0.095	0.5	0.96	0.8

LAND USE INTENSITY RATING

FAR Floor Area Ratio ..	is maximum square footage of total floor area permitted for each square foot of land area.
OSR Open Space Ratio ..	is minimum square footage of open space required for each square foot of floor area.
LSR Living Space Ratio ..	is minimum square footage of nonvehicular outdoor space required for each square foot of floor area.
RSR Recreation Space Ratio ..	is minimum square footage of recreation space for each square foot of floor area.
OCR Occupant Car Ratio ..	is minimum number of parking time limits required for each living unit.
TCR Total Car Ratio ..	is minimum number of parking spaces required for each living unit.

(5) Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, television aerials, electrical transmission and communication poles and towers, theater screens, steeples, roof signs, flagpoles, chimneys, smokestacks, wireless masts, water tanks, grain elevators, silos, gas containers, industrial installation requiring a vertical production procedure, such as flour mills, steel mills and refineries, or similar structures may be erected above the height limits herein prescribed, but no such structures or any place above the height limit be allowed for the purpose of providing additional floor space for residential, business or industrial use.

(6) In an "R3" Zone located somewhere within the west one-half of Section 1, Section 2, North one-half of Section 11, or the

Northwest one-quarter of Section 12, all in Township 30 North, Range 12 East, Fort Wayne, Allen County, Indiana, a greater height than 50 feet may be permitted up to a maximum allowable height not to exceed twelve stories or 125 feet, whichever is less.

Section 33-16. RESIDENTIAL LOT AREA REQUIREMENTS.

A. Except as hereinafter provided, no residential building or structure shall be erected unless such building or structure conforms and no building or structure shall be altered, enlarged or reconstructed unless such alteration, enlargement or reconstruction conforms with the area requirements of the district in which it is located as follows:

District	Min. Width at Building Line	Min. Lot Area (Square Feet)	Required Lot Area Per Dwelling Unit; No. of Units and Sq. Ft. Per Unit
R1	50 feet	6000	1 6000
R2	50 feet	6000	1 6000 2 3000
R3, B1, B3A, B3B, B4, M1, M2	50 feet	6000	1 6000 2 3000 3 or more 1500
RA	75 feet	10000	1 10000 2 7000 3 or more see Section 14 (D), 10
RB	60 feet	7200	1 7200 2 5000 3 or more see Section 14 (D), 10

B. Exceptions to Area and Width Requirements:

(1) Recorded Lots Less than Minimum Area - Lots established by legally recorded plat or deed at the time of the enactment of this chapter which have less than the minimum area requirement established by this section, may nevertheless be used for any use permitted within the district in which such lot is located.

(2) Through Lot (May be Two Lots) - Where a through lot has a depth of 200 feet or more, and has an area of 10,000 square feet or more, said lot may be treated as two lots with the rear lines of each approximately equidistant from the front lot lines.

(3) "RA" Districts, City Water and City Sanitary Sewer Facilities - Where in an "RA" District, city water and city sanitary sewer facilities are installed, the minimum width at the building line, the minimum lot area and the required lot area per dwelling unit for lots served by such facilities shall be the same as that prescribed for an "RB" District.

(4) Where in an "RA" District, City water and a public or quasipublic aerobic-type treatment system designed to serve a minimum of fifty (50) families are installed, the minimum width at the building line, the minimum lot area and the required lot area per dwelling unit for lots served by such facilities shall be the same as that prescribed for an "RB" District.

1 (5) "R3" District - In an "R3" District the Zoning
2 Enforcement Officer may issue an improvement location permit and a certifi-
3 cate of occupancy for a multi-family dwelling having minimum lot areas of
4 one thousand (1,000) square feet per dwelling unit providing the following
5 conditions are satisfied:

6 a The number of bedrooms per living unit
7 does not exceed two bedrooms in any of the
8 living units where the minimum lot area is
9 less than 1,500 square feet per unit.

10 b The side yard which adjoins an apartment
11 building shall be increased an additional
12 three feet for each additional story above
13 two stories in height.

14 c The side and rear yards which adjoin a
15 single or double family residential build-
16 ing are increased three feet for each
17 additional living unit exceeding a density
18 of 1,500 square feet per unit in addition
19 to the normal yard requirements set out in
20 Section 17 of this Code. However, the
21 combined total required side or rear yard
22 as established by all sections of the
23 Zoning Ordinance need not exceed 150 feet.

24 d The Zoning Enforcement Officer shall issue
25 an improvement location permit when the
26 developer has satisfactorily proven to the
27 Zoning Enforcement Officer that the fol-
28 lowing conditions exist:

29 (i) The increased density that will
30 result by the installation of this
31 use will not impose any hardship on
32 the existing schools serving the
33 area in which the development will
34 take place.

35 (ii) All existing sewers, water lines,
36 streets and sidewalks serving the
37 area proposed for development are
38 adequate to handle the increased
39 density that will occur as a result
40 of the establishment of the use
41 involved.

42 (iii) The increased density as proposed by
43 the improvement location permit will
44 not impose any hardship on the
45 following elements of the Develop-
46 ment Plan of the City of Fort Wayne:

- 47 (A) Land Use Plan
- 48 (B) Thoroughfare Plan
- 49 (C) Sewer Plan
- 50 (D) Water Plan
- 51 (E) School Plan
- 52 (F) Park and Playground Plan

53 e If the Zoning Enforcement Officer does not
54 issue an improvement location permit
55 within fifteen (15) days after written

1 demand to do so by a developer or appli-
2 cant, an appeal will lie to the Board of
3 Zoning Appeals.

4 f The parcel of land upon which the use is
5 erected shall have direct public access to
6 a street as defined in the Zoning Ordinance
7 for purposes of vehicular traffic,
8 off-street parking, utilities, and other
9 services such as mail delivery, garbage
10 collection, fire and emergency units, etc.

11 g The arrangement of buildings shall be such
12 that in the event the land is subdivided
13 there shall be sufficient space between
14 buildings, between buildings and the
15 street, and between buildings and property
16 lines to allow for the minimum platting
17 requirements of the Subdivision Control
18 Ordinance and the Zoning Ordinance of the
19 City of Fort Wayne.

20 h The minimum area of the site to be devel-
21 oped, exclusive of all public streets,
22 alleys, or other public ways, shall not be
23 less than 45,000 square feet with a mini-
24 mum lot frontage of 150 feet.

25 i The nearest 15 feet to any side or rear
26 property line adjoining a single family
27 residential building shall be landscaped
28 and in no event shall parking be permitted
29 nearer than 15 feet to the side or rear
30 property line adjoining said single family
31 residential building.

j All parking spaces on existing or proposed
street right-of-way shall be for parallel
parking only.

k In no event shall the Zoning Enforcement
Officer issue an improvement location
permit or a certificate of occupancy for a
use where the density exceeds one thousand
(1,000) square feet per living unit for
structures of three (3) to five (5)
stories and one thousand two hundred and
fifty (1,250) square feet for structures
two (2) stories or less except by action
of the Board of Zoning Appeals.

l All improvements of which the maintenance
would become the responsibility of the
City of Fort Wayne in the event of sub-
division shall meet the requirements of
the Subdivision Control Ordinance appear-
ing as Chapter 26 of this Code, and the
specifications of the Fort Wayne Board of
Public Works.

(6) In an "R3" Zone located somewhere within the
west one-half of Section 1, Section 2, North one-half of Section 11, or the
Northwest one-quarter of Section 12, all in Township 30 North, Range 12
East, Fort Wayne, Allen County, Indiana, the minimum lot area per dwelling

unit may be less than the 1,000 square feet per unit as required by paragraph (5), Subsection B, Section 16, Article III, Chapter 36 of this Municipal Code, providing the minimum lot area per dwelling unit is not less than 700 square feet per unit in the case of six through nine stories in height or 600 square feet per dwelling unit in the case of ten through twelve stories in height, subject to the following conditions:

- a The parcel of land upon which the use is erected shall have direct public access to a street as defined in the Zoning Ordinance for vehicular traffic, off-street parking, utilities, and other services such as mail delivery, garbage collection, fire and emergency units, etc.
- b The number of bedrooms per living unit does not exceed two bedrooms in any of the dwelling units where the minimum lot area is less than 700 square feet per unit.

C. Only One Main Building On a Lot - Every building hereafter erected shall be located on a lot as herein defined. In no case shall there be more than one residential building and its accessory buildings on one lot.

Section 33-17. YARD REQUIREMENTS - ALL DISTRICTS

A. Except as hereinafter provided, no building or structure shall be erected unless such building or structure conforms, and no building or structure shall be altered, enlarged or reconstructed unless such alteration, enlargement, or reconstruction conforms with the yard regulations of the district in which it is located, as follows:

(1) Front Yard Requirements - There shall be a front yard which shall have a minimum depth as follows:

<u>District</u>	<u>Depth in Feet</u>
R1, R2, R3	25
RA, RB -	Equal to one-half of the width of the street right-of-way on which the lot fronts. The right-of-way width shall be either that of an existing street or a proposed street identified in the City of Fort Wayne Thoroughfare Plan, whichever is greater, provided that the required depth of these front yards shall not be less than 30 feet and need not be more than 60 feet.
B1A, B1B -	Other Than Residential Use 15
B3A, B3B	None
M1, M2 -	Other Than Residential Use None
B2, B2A, B4, M3 -	Other Than Residential Use 75
B1A, B1B, B4, M1, M2 -	For Residential Use 25

(2) Front Yards On A Through Lot - At each end of a through lot there shall be a front yard of the depth required by this section for the district in which each street frontage is located, and one of such front yards may serve as a required rear yard.

(3) Front Yard, Between Buidings - Where a lot is situated between two lots, each of which has an existing main building thereon, the front yard requirements of such lot shall be the average of the front yards of said existing buildings.

(4) Front Yard, Adjoining Building - Where a lot abuts only one lot having an existing main building thereon, the front yard requirement of such lot shall be the average of the front yard of the existing building and the required front yard.

(5) Side Yard Requirements - There shall be two side yards for each lot, the minimum width of each of which and the aggregate width of both of which shall be as follows:

<u>District</u>	<u>Width of Each Yard</u>	<u>Aggregate Width of Both Yards</u>
R1, R2, R3 and B1A, B1B, B3B, B4, M1, M2 when used for residential purposes on first floor.	5 feet	25% of Lot Width or 20 feet whichever is less
RA, RB - One Dwelling Unit	10% of Lot Width	25% of Lot Width
More than one dwell- ing unit.	Above, plus 2 feet per additional unit	Above, plus 4 feet per additional unit
B1A, B1B, B2, B2A, B3B, B4, M1, M2, M3, when the lot abuts an "R" District	3 feet for each 12 feet of building height, or fraction thereof, but not less than 4 feet on the side which abuts an "R" District	Twice the "Each Yard" Requirement where applicable
B1A, B1B, B2, B2A, B3B, B4, M1, M2, M3, when the lot does not abut an "R" District	No requirements	None
B3A	No Requirements	None

(6) Side Yards Waived - For the purpose of side yard regulations, dwellings with common party walls shall be considered as one building occupying one lot.

(7) Rear Yard Requirements - There shall be a rear yard for each lot as indicated below, and the minimum depth of such yard shall be as follows:

District

Depth

For Residential Use in All
Districts Permitting Such Use.

25% of Lot Depth, or 25 feet,
whichever is less.

B1A, B1B, B2, B2A, B3A, B3B, B4,
M1, M2, M3, when abutting an "R"
District, otherwise none required.

20% of Lot Depth, or 20 feet,
whichever is less.

(8) Rear Yard, Accessory Building - An accessory building not exceeding 20 feet in height may occupy not more than 30% of the area of a required rear yard, provided that no accessory building shall be closer than three (3) feet to a side lot line.

B. General Provisions and Exceptions to Yard Requirements:

(1) Yards Apply to Only One Building - No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space or any lot be considered as providing a yard or open space for another lot whereon a building is to be erected.

(2) Projections Into Yards:

a Cornice, Sill, Chimney or Fireplace - A cornice, eave belt course, sill, canopy or other similar architectural feature (not including bay window or other vertical projection which shall be a part of the main building) may extend or project into a required side yard not more than 2 inches for each 1 foot of width of such yard and may extend or project into a required front or rear yard not more than 30 inches. Chimneys or fireplaces may project into a required front, side or rear yard not more than 2 feet, provided the width of such side yard is not reduced to less than 3 feet.

b Fire Escape - A fire escape may extend or project into any front, side or rear yard not more than 4 feet.

c Open Stairway or Balcony - An open, unenclosed stairway or balcony, not covered by a roof or canopy may extend or project into a required rear yard not more than 4 feet and such balcony may extend into a required front yard not more than 30 inches.

d Open Porch - An open platform or landing which does not extend above the level of the first floor of the building, may extend or project into any required front, side or rear yard not more than 6 feet, provided, that the width of a side yard is not reduced to less than 3 feet.

- 1
- 2 e Fence or Wall - A fence, latticework
- 3 screen, hedge or wall, not more than 7
- 4 feet in height, may be located in the
- 5 required side or rear yard, and a hedge,
- 6 maintained so as not to exceed 3 feet in
- 7 height, may be located in any required
- 8 front yard. Provided, however, that
- 9 nothing contained in this chapter shall be
- 10 deemed to prohibit the construction or
- 11 maintenance of a fence of any height in
- 12 connection with any permitted agricultural
- 13 use.
- 14
- 15 f Trees, Shrubs, Flowers, or Plants - Trees,
- 16 shrubs, flowers or plants shall be per-
- 17 mitted in any required front, side or rear
- 18 yard, provided it does not violate the
- 19 provisions for corner setbacks as required
- 20 in this section.
- 21
- 22 g Other Specified Structures - Walks, drive-
- 23 ways, curbs, retaining walls, mailboxes,
- 24 name plates, lamp posts, bird baths and
- 25 structures of a like nature shall be
- 26 permitted in any required front, side or
- 27 rear yard.

28 (3) Corner Visibility - No fence, wall, hedge, other

29 planting or other obstruction to vision, extending in excess of 3 feet above

30 the established street center line grade shall be erected or maintained on

31 that part of the corner lot that is included between the lines of inter-

32 secting streets and a line intersecting them at points of 15 feet distant

33 from the intersection of the street lines.

34 (4) On a corner lot the required rear yard, as

35 defined by the Zoning Ordinance, may be reduced to no less than fifteen (15)

36 feet; subject to the following conditions:

- 37 a The front yard complies with the minimum
- 38 setback requirements as established by
- 39 other sections of the Zoning Ordinance or
- 40 platted building lines.
- 41
- 42 b The side yard, as defined by the Zoning
- 43 Ordinance, adjacent to a side street shall
- 44 also meet the minimum front yard require-
- 45 ments of the Zoning Ordinance or platted
- 46 building lines, which ever are more
- 47 restrictive.
- 48
- 49 c The internal side yard, as defined by the
- 50 Zoning Ordinance, shall not be less than
- 51 twenty-five (25) feet.

52 In the event that a permit is issued based upon the above exception, allow-

53 ing a fifteen (15) foot rear yard, than in no event shall the internal side

54 yard of twenty-five (25) feet be encroached upon except by variance of the

55 Board of Zoning Appeals.

56 (5) On an internal lot which does not have parallel

57 sides or parallel front and rear lines, the required side or rear yards may

58 be established by using an average distance between the building and the

59 non-parallel side or rear line. However, in no event, shall any part of the

60 house be nearer than six (6) feet from a side line and fifteen (15) feet

61 from a rear line, unless authorized by the Board of Zoning Appeals.

Fencing: (6) Junk Yard, Refuse Dumps and Open Land Use Screen

- a An opaque, solid fence having a height above ground level of not less than seven (7') feet shall be erected on all perimeters of all Junk Yards, as defined in this chapter, Refuse Dumps and Public Garages with outside over-night storage of ten (10) or more vehicles, as defined in this chapter. The fencing shall be uniform material, color, and height, provided, however, that the provisions of paragraph (3) of this section referring to corner visibility must be adhered to.
- b Any Junk Yard, Refuse Dump, or Public Garage with over-night storage for ten (10) or more vehicles existing as a permitted or non-conforming use, whether legal or not, upon effective date of this paragraph, must, if they are to continue, have an opaque fence as described in paragraph (a) above erected on all the perimeters of said use not later than six (6) months from enactment of this ordinance.

Section 33-18. LOT COVERAGE IN SPECIFIED DISTRICTS.

In the districts hereinafter listed, residential buildings or structures, including accessory buildings or structures, shall not be erected, enlarged or reconstructed to exceed the maximum lot coverage established for the district wherein such buildings or structures are located as given below. In computing such coverage, the area of open porches and terraces shall be excluded.

<u>District</u>	<u>Maximum Coverage</u>
R1, R2, R3, B1A, B1B, B3B, B4, M1, M2	30% of lot area or 1,800 square feet, whichever is greater.
RA, RB	25% of lot area

Section 33-19. RESIDENTIAL BUILDING SIZE - SPECIFIED DISTRICTS.

No building or structure shall be erected, enlarged, or reconstructed for residential purposes having a ground floor area, exclusive of unenclosed porches, terraces, breezeways and garages, of less than the minimum established for the district wherein such building or structure is located as follows:

<u>District</u>	<u>Ground Floor Area of Bldg. (Sq.Ft.)</u>	
	<u>One Story</u>	<u>More Than One Story</u>
R1	672	480
R2 - One Dwelling Unit	672	480
Two Dwelling Unit	960	480
R3 - One Dwelling Unit	672	480
Two Dwelling Unit	960	480
Three or More Units	Above, Plus 480 per unit	Above, Plus 400 per unit
RA, RB, B1A, B1B, B3A B3B, B4, M1, M2	Same Requirements as R3 District	

ARTICLE V. ADMINISTRATION AND ENFORCEMENT

Section 33-20. IMPROVEMENT LOCATION PERMIT.

A. No Building or structure, except buildings incidental to non-residential agricultural uses shall be erected, reconstructed, enlarged or moved until an Improvement Location Permit shall have been applied for in writing and issued by the Zoning Enforcement Officer.

B. No Improvement Location Permit shall be issued by the Zoning Enforcement Officer for the proposed erection, reconstruction, enlargement or moving of a building or structure unless the proposed erection, reconstruction, enlargement or moving of a building or structure conforms with the provisions of this chapter.

C. Applications for Improvement Location Permits shall be made upon form prescribed by the Zoning Enforcement Officer and shall be accompanied by plans and specifications of sufficient detail to enable the Zoning Enforcement Officer to determine whether the proposed improvements will comply with the provisions of this chapter.

D. The applicant shall post said permit in a prominent place on the premises prior to and during the period of erection, reconstruction, enlargement or moving.

E. Every permit may be revoked if active work is not commenced within sixty (60) days after the date of its issue, and continued with due diligence to completion; and the Zoning Enforcement Officer shall judge if due diligence is being shown and shall notify the owner or agent in case due diligence is not being shown.

F. If the Zoning Enforcement Officer determines that the work under any permit is not being continued with due diligence to completion or is not proceeding according to the detailed statement, plans and specifications, upon which such permit was issued, or is proceeding in violation of law, it shall be his duty to give written notice thereof to the owner or his agent, requiring that the same must be immediately rectified.

G. If the owner or his agent neglects to comply with the provisions of such notice within such time as may be specified by the Zoning Enforcement Officer, or fails to commence active work within sixty (60) days after the date of issue, it shall be the further duty of the Zoning Enforcement Officer to revoke said permit and written notice thereof shall be immediately served upon the owner, agent, superintendent or contractor in charge of the work, or posted on the property.

1 H. After such revocation of permit, any person performing
2 any work in or about said structure, building or premises shall be guilty of
3 a misdemeanor and upon conviction thereof shall be fined not less than one
4 dollar nor more than one hundred dollars.

5 Section 33-21. CERTIFICATE OF OCCUPANCY.

6 A. No occupancy, use or change of use, except buildings
7 incidental to non-residential agricultural uses shall take place until a
8 certificate of occupancy shall have been applied for in writing and issued
9 by the Zoning Enforcement Officer, in the following cases:

10 (1) Occupancy and use of a building or structure
11 hereafter erected or enlarged.

12 (2) Change in use of an existing building or struc-
13 ture.

14 (3) Occupancy and use of vacant land except for the
15 raising of crops.

16 (4) Change in the use of land to a use of a differ-
17 ent classification except for the raising of crops.

18 (5) Any change in use of a nonconforming use.

19 B. If the proposed use is in conformity with the provi-
20 sions of this chapter, the Certificate of Occupancy therefore shall be
21 issued within three (3) days after the application for the same has been
22 made; provided, however, that no Certificate of Occupancy shall be issued in
23 connection with the construction, alteration, enlargement or moving of a
24 building or structure until such construction, alteration, enlargement or
25 moving shall have been completed. Each Certificate of Occupancy shall state
26 that the building or proposed use of a building or land complies with all
27 the provisions of this chapter.

28 C. All improvements in any subdivision duly recorded
29 after July 1, 1964, shall be installed in a manner that complies with the
30 general and detailed specifications handbook adopted by the Board of Public
31 Works of the city on August 14, 1961, and any amendments thereof which have
32 been or may be duly adopted by such board from time to time, before a Certi-
33 ficate of Occupancy shall be issued. A Certificate of Occupancy for any use
34 lying within the jurisdiction of the City Plan Commission of the city shall
35 not be issued until all contractual inspection costs or inspection fees
36 required by General Ordinance No. G-40, adopted on August 25, 1959, and
37 appearing as Title 28A in the 1959 edition of the Municipal Code of the
38 city, and any amendments thereof, have been paid to the Engineering Permit
39 Office.

40 Section 33-22. COMPLETION OF EXISTING BUILDINGS.

41 A. Nothing in this chapter shall require any change in
42 the plans, construction or intended use of any building or structure, the
43 construction of which was legally authorized by March 1, 1955 date of this
44 chapter and which construction is being diligently prosecuted pursuant to
45 such authority. Such entire building or structure shall be completed within
46 two (2) years from March 1, 1955.

47 B. Nothing herein shall prevent the reconstruction of a
48 wall or other structural part of a building declared unsafe by the proper
49 authorities of the city or of the state.

1
2 Section 33-23. ENFORCEMENT.

3 A. It shall be the duty of the Zoning Enforcement Officer
4 to enforce the provisions of this chapter in the manner and form with the
powers provided by this chapter and any and all other provisions of this
Code, and as provided in the laws of the State of Indiana.

5 B. All departments, officials and employees of the city
6 which are vested with the duty of authority to issue permits or licenses
7 shall conform to the provisions of this chapter and shall issue no permit or
license for any use, building or purpose if the same would be in conflict
with the provisions of this chapter.

8
9 Section 33-24. FILING FEES.

10 A. For each application for an improvement location
11 permit, the sum of Three Dollars (\$3.00) to be paid to and collected by the
Zoning Enforcement Officer.

12 B. For each application for a certificate of occupancy
13 the sum of Three Dollars (\$3.00) to be paid to and collected by the Zoning
Enforcement Officer.

14 C. For each petition for an appeal from the decision of
15 the Zoning Enforcement Officer to the Board of Zoning Appeals, a fee of
Fifty Dollars (\$50.00) to be paid to and collected by the Zoning Enforcement
Officer, the receipt for which shall accompany the petition.

16 D. For each application for the approval by the Commis-
17 sion of a "B2" Regional Shopping Center Development Plan or a "B2A" Neigh-
18 borhood Shopping Center Development Plan, or an "IA" Interchange Access
Center Development Plan, a fee of Fifty Dollars (\$50.00) to be paid to and
collected by the Zoning Enforcement Officer, the receipt for which shall
accompany the application.

19 E. For each petition for an amendment to this chapter, a
20 fee of fifty dollars (\$50.00) to be paid to and collected by the City
Controller the receipt for which shall accompany the petition.

21 F. No part of any filing fee paid pursuant to this sec-
22 tion shall be returnable to the applicant or petitioner.

23 Section 33-25. PENALTIES.

24 A. Any person, whether as principal, agent, owner,
25 lessee, tenant, contractor, builder, architect, engineer or otherwise who
violates any provision of this chapter shall be guilty of a misdemeanor and
26 upon conviction shall be punished by a fine of not less than ten dollars nor
more than three hundred dollars for each offense. Each day of the existence
27 of any violation of this chapter shall be a separate offense.

28 B. The erection, construction, enlargement, conversion,
moving or maintenance of any building or structure and the use of any land
29 or building which is continued, operated or maintained contrary to any
provisions of this chapter is hereby declared to be a nuisance and in viola-
30 tion of this chapter and unlawful. The Plan Commission by its Zoning
Enforcement Officer may institute a suit for injunction in the Circuit Court
31 or any Superior Court of the County to restrain any person or governmental
unit from violating any provision of this chapter and to cause such viola-
32 tion to be prevented, abated or removed. Such action may also be instituted
by any property owner who may be especially damaged by the violation of any
provision of this chapter.

1 C. The remedies provided for in this section shall be
2 cumulative and not exclusive and shall be in addition to any other remedies
3 provided by law.

4 ARTICLE VI. BOARD OF ZONING APPEALS

5 Section 33-26. ORGANIZATION.

6 The Board of Zoning Appeals of the city, as presently constituted,
7 is hereby recreated and re-established and continued and shall exist here-
8 after subject to and in accordance with the provisions of Chapter 174 of the
9 Acts of 1947 of the General Assembly of the State and all acts now or here-
after amendatory thereto.

10 Section 33-27. MEETINGS.

11 The Board shall meet at least once each month on a regular day set
12 by the Board and at other times at the call of the chairman or of not less
13 than three (3) members thereof.

14 Section 33-28. PROCEDURE.

15 The procedure of the Board shall be governed by the provision of
16 Chapter 174 of the Acts of 1947 of the General Assembly of the State of
17 Indiana and all acts amendatory thereto. The Board shall adopt rules and
18 regulations concerning the filing of appeals, the giving of notices, the
conduct of its hearings and for all other of its operations and procedures
as shall be necessary to carry out its duties. It shall keep minutes of its
proceedings, records of its examinations and other official actions, prepare
written findings and record the vote on all actions taken. All minutes and
records of the Board shall be public.

19 Section 33-29. POWERS OF THE BOARD OF ZONING APPEALS.

20 A. The Board of Zoning Appeals shall:

21 (1) Hear and determine appeals from and review any
22 order, requirement decision or determination made by the Zoning Enforcement
23 Officer and any other administrative official or board charged with the
enforcement of this chapter or any regulation adopted pursuant hereto;

24 (2) Permit and authorize contingent uses and special
25 uses subject to and within the limitations prescribed by the provisions of
this chapter;

26 (3) Authorize upon appeal in specific cases such
27 variance from the terms of this chapter as will not be contrary to the
28 public interest, where, owing to special conditions a literal enforcement of
the provisions of this chapter will result in unnecessary hardship, and so
29 that the spirit of this chapter shall be observed and substantial justice
done; provided, however, that no action shall be taken or decision made
except after public hearing.

30 B. In exercising its powers, the Board may reverse or
31 affirm, wholly or partly, or may modify the order, requirement, decision or
32 determination appealed from as in its opinion ought to be done in the pre-
mises, and to that end shall have all powers of the officer or board from
whom the appeal is taken. It may impose such conditions, regarding the
location, character and other features of the proposed building, structure
or use with which the appeal before it is concerned, as it may deem advis-

1 able in furtherance of the purposes of this chapter and the protection of
2 the public convenience and welfare, provided, however, that it shall not
3 permit any use in any district which would be in conflict with the permitted
uses of such district under the terms of this chapter.

4 ARTICLE VII. PRIVATE RESTRICTIONS

5 Section 33-30. WHEN CHAPTER MORE RESTRICTIVE.

6 Whenever the provisions of this chapter are more restrictive or
7 impose higher standards than are required by any statute of the state or any
provision of any other chapter of this Code or of any other ordinance of
8 this city or by any restrictions or limitations as to particular property
established by deed, plat or otherwise running with the land, the provisions
9 of this chapter shall govern.

10 Section 33-31. WHEN OTHER PROVISIONS MORE RESTRICTIVE.

11 Whenever the provisions of any statute or of any other chapter of
12 this Code or of any other ordinance of this city, or any restriction or
limitation established by plat or deed or otherwise running with the land,
13 is more restrictive or imposes higher standards than are required by this
chapter, the provisions of such statute, chapter, ordinance, plat, deed,
14 restriction or limitation shall govern.

15 ARTICLE VIII. SEVERABILITY.

16 Section 33-32. If any part, parts, section, sections, provision,
17 clause or portion of this chapter shall be adjudged invalid or unconstitution-
18 al, such invalidity or unconstitutionality shall not affect the validity
or constitutionality of this chapter as a whole or of any other part, sec-
19 tion, clause, provision or portion of this chapter.

20 ARTICLE IX. HISTORICAL DISTRICTS.

21 Section 33-33. PURPOSES

22 In order to promote the economic and general welfare of the citi-
23 zens of Fort Wayne and to insure the harmonious, orderly and efficient
growth and development of the municipality, it is deemed essential by the
City of Fort Wayne that the qualities relating to the history of the City
24 and a harmonious outward appearance of structures which support and enhance
property values and attract residents be preserved. Some of these qualities
25 are the continued existence and preservation of historic areas and build-
ings, the continued construction, reconstruction, and remodeling of build-
26 ings in the historic styles and a general harmony as to style, form, propor-
tion, texture and material between the buildings of historic design and
27 those of more modern design. This purpose is advanced through the preser-
vation and protection of the historically or architecturally worthy struc-
28 tures which impart a distinct aspect to the City and which serve as visible
reminders of the historic heritage of the City. A Historic District shall
29 apply to the parcel(s) so designated and any structure(s) or appurtenances
found thereon. Although this ordinance does not directly relate to the
30 procedures for designation of a structure or area on the National Register
of Historic Places, coordination between this ordinance and the National
31 Register's procedures is strongly encouraged.

Section 33-34. DEFINITIONS

A. Review Board - Fort Wayne Historic Preservation Review Board.

B. Certificate of Appropriateness - A certificate issued by the Zoning Enforcement Officer stating that the occupancy, use or alteration of land, building or structure in a Historic District referred to therein complies with the provisions of this chapter.

C. Commission - Fort Wayne City Plan Commission.

D. Demolition - The razing of any exterior architectural feature or structure, including its ruining by neglect of necessary maintenance and repairs, or either.

E. Demolition Permit - A permit which authorizes the razing of any exterior architectural feature or structure.

F. Economically Unfeasible - A cost in excess of anticipated return, considering all viable alternatives.

G. Emergency Repair - Replacement of any external component of a primary structure, which if delayed could cause severe damage to the other components of the structure or which would prohibit adequate protection from the weather elements and thus jeopardize the health, welfare or safety of the occupants.

H. Form - The shape and structure of something as distinguished from its material.

I. Improvement - Any place, structure, building, fixture, or man-made object which in whole or part constitutes a visually significant exterior physical betterment, adornment, or enhancement of any real property.

J. Landmark - Any physical feature or improvement designed by the City Council as such, which in whole or part has historical, social, cultural, architectural, or aesthetic significance to the City and has been in existence for no fewer than fifty (50) years.

K. Material - Matter that has qualities which give it individuality and by which it may be categorized.

L. Overlay District - A district which imposes requirements in addition to the regulations of the underlying zoning district.

M. Physically Unfeasible - Lack of existence of labor, material and/or techniques to perform the work.

N. Planning Department - The Department of Community Development and Planning or such person authorized.

O. Proportion - Harmonious relation of parts to each other or the whole.

P. Site Improvement - All or any of the landscaping, planting, paving, steps, fencing, masonry walls, and other significant attributing features on the site of any structure.

Q. Style - A manner of expression characteristic of an individual, period, school or nation.

1 R. Texture - The visual or physical surface character-
2 istics and appearance of a structure.

3 Section 33-35. CREATION OF THE HISTORIC PRESERVATION REVIEW BOARD

4 A. The Review Board shall consist of seven (7) members.
5 The voting members shall be appointed by the Mayor of the City of Fort Wayne
6 and approved by the Fort Wayne City Council. One member must have Indiana
7 architectural certification, one member shall be a Real Estate Broker, one
8 member shall be a contractor licensed by the Fort Wayne/Allen County Building
9 Department, one member shall be a professional historian, and three
10 members shall be chosen from the community-at-large. Voting members shall
11 each serve for staggered terms of three (3) years; however, the initial
12 terms of members may be for one (1) year, two (2) years, or three (3) years
13 in order for the terms to be staggered. A vacancy shall be filled through
14 appointment by the Mayor for the duration of the unexpired term and approved
15 by the Fort Wayne City Council. No members shall be employed by the City of
16 Fort Wayne. Members must be residents of the City of Fort Wayne who have
17 demonstrated an interest in the preservation and development of historic
18 buildings and areas.

12 B. Members of the Review Board shall serve without
13 compensation but shall be paid for reasonable expenses incurred in the
14 performance of their duties.

14 C. The Review Board shall elect from its membership a
15 Chairperson, Vice-Chairperson and Secretary who shall serve for one (1) year
16 and who may be reelected. The Review Board shall adopt rules for the trans-
17 action of its business not inconsistent with this Section. The rules must
18 include the time and place of regular meetings and a procedure for the
19 calling of special meetings. All scheduled meetings of the Review Board
20 must be open to the public and a public record shall be kept of the Review
21 Board's resolutions, proceedings, and actions. The secretary shall be
22 responsible for the maintenance of the Review Board's records.

19 D. Any official action of the Review Board requires a
20 consensus of a majority of the members. For the Review Board to take action
21 a quorum of four (4) members must be present.

21 E. The Review Board shall hold regular meetings, at least
22 monthly, except when it has no business.

23 F. Each official of the governmental unit who has
24 responsibility for building inspection, building permits, planning, or
25 zoning shall provide such technical, administrative and clerical assistance
26 as may be requested by the Review Board.

25 Section 33-36. ESTABLISHMENT AND REGULATION OF HISTORIC PRESERVATION
26 DISTRICTS.

26 A. The City Council may by ordinance establish, amend, or
27 rescind one or more areas or structures of the city as Historic Preservation
28 Districts, in accordance with the procedures and standards stated in this
29 Article. A Historic Preservation District is subject to the regulations and
30 restrictions imposed by this Article as well as other Articles of this
31 Ordinance. A Historic Preservation District applies to areas or structures
32 so established and any appurtenances therein or thereto.

31 B. Amendments may be initiated by a petition from the
32 Plan Commission, or by the owners of 50% or more of the area involved in the
33 petition. Petitions shall be filed in the Planning Department on the form
34 prescribed by the Plan Commission.

1 C. Upon receipt by the Review Board, such application
2 shall be forwarded to the Planning Department, which shall investigate the
3 property which is the subject of such application and shall prepare a writ-
ten report for the Review Board.

4 D. At the next regularly scheduled meeting of the Review
5 Board following its receipt of the Planning Department's report, such appli-
6 cation shall be considered by said Review Board, which shall recommend to
7 the Plan Commission within 180 days:

8 (1) that such application be approved as submitted
9 or as modified by that Review Board, or,

10 (2) that action be deferred, or,

11 (3) that such application shall be denied.

12 E. The Plan Commission shall hold a public hearing on such
13 petition and recommendation by the Review Board. At least ten (10) days
14 prior to the date set for such hearing, the Plan Commission shall publish in
15 a newspaper of general circulation in the City, a notice of time and place
16 of such hearing. Following such hearing the Plan Commission shall consider
17 such petition and shall recommend to the City Council:

18 (1) that such petition be approved, as submitted or
19 as modified by the Plan Commission, or,

20 (2) that action be deferred, or,

21 (3) that such petition be denied.

22 F. Thereafter, an ordinance relative to such petitions
23 shall be prepared and submitted to the City Council, which shall proceed
24 with the consideration of such proposed ordinance in the same manner and
25 subject to the same voting requirements as would apply in the case of an
26 ordinance to rezone land, provided that the City Council may amend such
27 proposed ordinance prior to its adoption in any manner it may deem necessary
28 to accomplish the purposes of this section.

29 G. A Historic Preservation District shall not be estab-
30 lished unless the proposed area or structure is consistent with the pur-
31 poses of this Article and one or more of the following standards.

32 (1) The presence of one or more styles of architec-
ture: (a) reflecting one or more historical periods; (b) having a unique
significance, interest, importance, or value, or; (c) in danger of becoming
extinct.

(2) The presence of one or more structures or struc-
tural features which are of historical, social, cultural, architectural, or
aesthetic significance, interest, importance, or value.

(3) The presence of a distinct historic interest of
a local, state, or national character.

33 Section 33-37. CERTIFICATES OF APPROPRIATENESS

34 A. In Historic Districts no exterior portion of any
35 structure, (including walls, fences, light fixtures, colors, steps and
36 parking lots or other appurtenant features) utility or sign, shall be
37 erected, altered, restored, moved or demolished until an application for a
38 Certificate of Appropriateness has been submitted to and approved by the
39 Review Board.

1 B. Nothing in this Article shall be construed to prevent
2 the ordinance repairs and maintenance of any such structure.

3 C. An application for a Certificate of Appropriateness
4 shall be filed in the Planning Department on the form prescribed by the
5 Review Board. Within ten (10) days of receipt, such application shall be
6 forwarded to the Review Board for consideration. The Review Board or Plan-
7 ning Department may require submission of such reports and exhibits as are
8 reasonably necessary in making a determination as to appropriateness. For
9 construction, alteration or renovation in Historic Districts, the Review
10 Board shall consider an application for a Certificate of Appropriateness
11 within thirty (30) days following the receipt of the application.

12 D. A Certificate of Appropriateness shall not be issued
13 unless the Review Board finds that the proposed work is appropriate and
14 consistent with the purposes of this Article and after considering the
15 following standards:

16 (1) The effect of the proposed work in creating,
17 changing, destroying, or affecting the exterior architectural features of
18 the structure upon which such work is to be done,

19 (2) The relationship between such exterior archi-
20 tectural features, together with such effects, and the exterior architec-
21 tural features of the structure,

22 (3) The relationship between the results of such
23 work and the exterior architectural features of any other, neighboring
24 structures in such district,

25 (4) The effects of such work upon the preservation,
26 protection, enhancement, perpetuation, and use of the structure.

27 In appraising such effects and relationships, the
28 factors of historical, social, cultural, architectural, and aesthetic
29 significance, interest, importance, and values, and architectural style,
30 design, arrangement, texture, material and color shall be considered. The
31 Review Board may adopt other criteria to follow in the review of applica-
32 tions for Certificate of Appropriateness as it deems appropriate.

33 E. In the event the Building Department, the Fire Depart-
34 ment, the City/County Health Department, or any agency of the City/County,
35 or any Court having jurisdiction thereof, (a) shall determine that a struc-
36 ture or any part thereof within a Historic Preservation District is hazard-
37 ous or dangerous to the health and safety of persons or to property, and,
38 (b) having authority to do so, shall order the construction, reconstruction,
39 alteration, or demolition of any such structure, or part thereof to correct
40 the conditions determined to be hazardous or dangerous, nothing in this
41 Article shall be so construed as making it unlawful for any person without
42 the prior issuance of a Certificate of Appropriateness to comply with such
43 order to the extent that such compliance corrects the conditions so deter-
44 mined to be hazardous or dangerous, (c) any agency of the City issuing such
45 an order shall make every effort to insure that the construction, recon-
46 struction, alteration, or demolition is accomplished in keeping with the
47 spirit of this ordinance whenever possible.

48 F. Any agency of the City issuing such an order shall
49 give the Review Board notice of its order or proposed order. No agency of
50 the City shall issue such an order to any person not having a Certificate of
51 Appropriateness for such work within a Historic Preservation District when
52 there is sufficient time to apply for and obtain a Certificate of Approp-
53 riateness nor issue such an order for work which would be more than
54 necessary to correct such hazardous or dangerous conditions.

G. For demolition within a Historic Preservation District such application for a Certificate of Appropriateness shall be filed with the Planning Department on the form prescribed by the Review Board. Within ten (10) days of receipt, such application shall be scheduled with the Review Board for consideration. The Review Board or Planning Department may require submission of such reports and exhibits as are reasonably necessary in making a determination as to appropriateness. A demolition permit shall not be issued until the Review Board takes one of the following actions:

(1) If preservation is found to be physically or economically unfeasible, the Review Board shall authorize issuance of a demolition permit.

(2) If preservation is found to be physically or economically feasible, the Review Board shall delay such action for a period not to exceed one (1) year, during which time it shall take whatever public or private action is within its power leading to preservation.

If after sixty (60) days the Review Board has not taken final action, the City/County Building Department may treat such application as though demolition has been authorized by the Review Board. Notice shall be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street. In addition, notice shall be published in a newspaper of general local circulation at least three (3) times prior to demolition, the final notice of which shall be not less than fifteen (15) days prior to the date of the permit, and the first notice of which shall be published no more than fifteen (15) days after the application for a permit to demolish is filed. The purpose of this section is to preserve historic buildings which are important to the education, culture, traditions and the economic values of the governmental unit, interested persons, historical societies or organizations the opportunity to acquire or to arrange for the preservation of such buildings. The Review Board may at any time during such stay approve a Certificate of Appropriateness in which event a permit shall be issued without further delay and demolition may proceed.

H. Any person or party aggrieved by a decision made by the Historic Preservation Review Board upon an application for Certification of Appropriateness shall be entitled to a review thereof by the Board of Zoning Appeals of the City in accordance with the provisions of this Section. Such review may be had by filing a petition for review with the Board of Zoning Appeals within fifteen (15) days after receipt of notice that such determination is made by the Historic Preservation Review Board. The Board of Zoning Appeals shall consider such petition and shall limit its review to whether the decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. The Board of Zoning Appeals may affirm, remand, or reverse its decision. Any person or party aggrieved by the decision and the order of the Board of Zoning Appeals may appeal to the Allen Circuit Court or Allen Superior Court within thirty (30) days after the date of the decision and the order of the Board of Zoning Appeals pursuant to Indiana law as provided in such cases.

Section 33-38. PRE-EXISTING HISTORIC DISTRICTS

In accordance with this section the original amended maps shall designate previous Historic Districts approved by City Council as part and subject to this ordinance.

Section 33-39. ENFORCEMENT AND PENALTIES

The procedure for enforcement of this article shall follow Article V, Section 23 and 25 of this ordinance.

Section 33-40. SAVING CLAUSE

The enactment of this chapter shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or part or provision of any chapter of the Municipal Code of the City of Fort Wayne, Indiana, 1946 prior to the taking effect of this chapter.

ARTICLE X - FLOOD PLAIN MANAGEMENT AND CONTROL

Section 33-41. General Criteria For Flood Plain Regulations.

A. Objectives.- The objective of these criteria are to provide a uniform basis for the preparation and implementation of sound flood plain regulations for Fort Wayne's rivers and streams to:

- (1) Protect human life and health.
- (2) Protect individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.
- (3) Provide for public awareness of the flooding potential.
- (4) Minimize public and private property damage.
- (5) Minimize surface and ground-water pollution which will affect human, animal, or plant life.
- (6) Control Flood-plain uses such as fill, dumping, storage of material, structures, buildings, and any other works which acting alone or in combination with other existing or future uses which will cause damaging flood heights and velocities by obstructing flows and reducing valley storage.
- (7) Control development which will, when acting alone or in combination with similar developments, create an unjustified demand for public investment in flood-control works by requiring that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction.
- (8) Control development which will, when acting alone or in combination with similar development, cause flood losses if public streets, sewer, water, and other utilities must be extended below the flood level to serve the development.
- (9) Control development which will, when acting alone or in combination with similar development, create an additional burden to the public to pay the costs of rescue, relief, emergency preparedness measures, sandbagging, pumping and temporary dikes or levees.
- (10) Control development which will, when acting alone or in combination with similar development create an additional burden to the public for business interruptions, factory closings, disruption of transportation routes, interference with utility services, and other factors that result in loss of wages, sales, production, and tax write offs.
- (11) Help maintain a stable tax base by the preservation or enhancement of property values for future flood-plain development. In addition, development of future flood-blight areas on flood plains will be minimized and property values and the tax base adjacent to the flood plain will be preserved.

Section 33-42. Definitions - Whenever used or referred to in this ordinance unless a different meaning appears from the context:

- A. "Board" - Board of Zoning Appeals
- B. "Commission" - Fort Wayne City Plan Commission

1 C. "Flood" or "Flood Water" - means the water of any
2 river or stream in the State or upon or adjoining any boundary line of the
3 State which is above the bank and/or outside the channel and banks of such
4 river or stream.

5 D. "Flood Hazard Areas" - means those areas of the flood
6 plain which have not been adequately protected from flooding by the regula-
7 tory flood by means of dikes, levees, reservoirs, or other works approved by
8 the Commission.

9 E. "Flood Plain" - means the area adjoining the river or
10 stream which has been or may hereafter be covered by flood water.

11 F. "Flood-Proofing" - a combination of structural provi-
12 sions, charges, or adjustments to properties and structures subject to
13 flooding primarily for the reduction or elimination of flood damages to
14 properties, water and sanitary facilities, structures, and contents of
15 buildings in a flood-hazard area.

16 G. "Flood Protection Grade" - means the elevation of the
17 lowest point around the perimeter of a building at which flood waters may
18 enter the interior of the building.

19 H. "Floodway" (FW) see (M) "Regulatory Floodway"

20 I. "Floodway Fringe" (FF) - means those portions of the
21 flood hazard areas lying outside the floodway.

22 J. "General Flood-Plain District" (GF) see (D) "Flood
23 Hazard Areas".

24 K. "INRC" - The Indiana Natural Resources Commission.

25 L. "Obstruction" - any dam, wall, wharf, embankment
26 levee, dike, pile, abutment, projection, excavation, channel rectification,
27 bridge, conduit, culvert, building, wire, fence, rock, gravel refuse, fill,
28 structure or matter in, along, across or projecting into any channel, water-
29 course, or regulatory flood-hazard area which may impede, retard, or change
30 the direction of the flow of water, or that is placed where the flow of
31 water might carry the same downstream to the damage of life or property.

32 M. "Regulatory Flood" - means that flood having a peak
33 discharge which can be expected to be equaled or exceeded on the average of
34 once in a one hundred year period, as calculated by a method and procedure
35 which is acceptable to and approved by the Commission. This flood is equi-
36 valent to a flood having a probability of occurrence of one percent in any
37 given year.

38 N. "Regulatory Flood Profile" - means a longitudinal pro-
39 file along the thread of a stream showing the maximum water surface eleva-
40 tions attained by the regulatory flood.

41 O. "Regulatory Floodway" or "Floodway" - means the chan-
42 nel of a river or stream and those portions of the flood plains adjoining
43 the channel which are reasonably required to efficiently carry and discharge
44 the peak flood flow of the regulatory flood of any river or stream.

45 P. "River or Stream" - shall mean all open channels,
46 whether natural, man-made, or notified by man, which carry or discharge
47 water.

Section 33-43. Flood Hazard Area Delineation.

The areal extent of the flood hazard area shall include all land as indicated on maps supplied by the Army Corps of Engineers, the Soil Conservation Service and the Department of Housing and Urban Development. The regulatory floodway, floodway fringe, the peak discharge and the flood profile shall be determined by the INRC utilizing the best available technology and shall be approved by the Commission.

Section 33-44. Establishment of District Boundaries.

The mapped flood-hazard areas within the jurisdiction of this ordinance are hereby designated as the GENERAL FLOOD-PLAIN DISTRICT (GF). The Boundaries of this district shall be shown on the official Zoning Map. Within this district all uses not permissible by right or as special-permit uses shall be prohibited.

Section 33-45. District Boundaries Changes Thereto.

The "General Flood-Plain District" shall be divided into a "Floodway (FW)" and a "Floodway Fringe (FF) District" upon determination and delineation by the INRC and the Commission. When this division occurs the provisions outlined in Section 46 and 47 shall automatically take effect.

Section 33-46. General Flood Plain District. (GF)

A. General Provisions and Uses. It is the intent of this ordinance to control and manage the uses of land in the General Flood Plain (GF) so as to meet the objectives identified and superimposed over the existing zoning districts. However, before an Improvement Location Permit can be issued for any permitted uses, the Zoning Enforcement Officer must ascertain whether said use or accompanying structure will be detrimental to the objectives identified in Section 40 A. (1) - (11).

B. General Use Permit. All construction, building, alteration of structures or land, change of use, or initiation of a new use in the General Flood Plain will require a "general use permit" before the issuance of an Improvement Location Permit. This "General Use Permit" shall be granted by the Zoning Enforcement Officer.

C. Procedures Being Followed Regarding Construction in General Flood Plain District.

(1) All plans submitted to the Commission for either approval by the Commission or application for Improvement Location Permits will be checked against the official Zoning Map. If the site location falls within a flood hazard area, a location map and letter will be submitted to the INRC for their recommendation. Until comment is received from the INRC NO action will be taken by the Commission.

(2) Based upon the technical evaluation of the INRC, the Zoning Enforcement Officer shall determine and evaluate the specific flood hazard at the site and shall determine the suitability of the proposed use in relation to the potential flood hazard. If he finds the proposed use suitable, he will issue a "General Use Permit". Upon issuance of this permit an Improvement Location Permit shall be issued forthwith provided the other requirements of this ordinance have been satisfied.

If upon receipt of comments by the INRC, he finds that the proposed use is unsuitable in relation to the potential flood hazard, he shall deny the application for a "General Use Permit". The applicant may then file for a

1 hearing before the Commission if he so chooses. The applicant shall have
2 the burden of proof to establish that the permit was wrongfully denied.

3 Both the Commission and the Zoning Enforcement Officer shall consider the
4 factors listed in Section 46 D (2) when making their decision on the suitability of the proposed use.

5 Section 33-47. Floodway Districts. (FW)

6 A. Permitted uses within a regulatory floodway district.
7 The following land uses have acceptable low flood damage potential and shall
8 not require a special permit for construction in the floodway, provided they
9 do not involve any structure, obstruction, deposit, or excavations. This
10 list is intended to include examples of open space uses which will not
11 adversely affect the efficiency of or unduly restrict the capacity of the
12 regulatory floodway and are reasonably tolerant of the presence of flood
13 waters.

14 (1) Agricultural uses such as the production of
15 crops, pastures, orchards, plant nurseries, vineyards, and general farming.

16 (2) Forestry, wildlife areas, and nature preserves.

17 (3) Park and recreational uses, such as golf
18 courses, driving ranges, and play areas.

19 B. Special Exception Uses - Floodway Districts. The following
20 uses of land may have unacceptable flood damage potential; involve
21 structures, obstructions, deposits, or excavation which may adversely affect
22 the efficiency of or unduly restrict the capacity of the regulatory floodway;
23 constitute an unreasonable hazard to the safety of life or property; or
24 result in unreasonable detrimental effects upon fish, wildlife, and botanical
25 resources. These uses will require a "Special Permit" for construction
26 in the Floodway as provided in "Special Permit" uses of this ordinance. In
27 general, these uses involve water management structures, transportation
28 facilities, temporary or seasonal flood plain occupancy, or public, industrial,
29 and commercial uses which are either dependent on their proximity to
30 water or are reasonably open in nature and flood tolerant.

31 (1) Water management and use facilities, such as
32 dams, docks, dolphins, channel improvements, dikes, jetties, groins,
33 marinas, piers, wharves, levees, seawalls, floodwalls, weirs, and irrigation
34 facilities.

35 (2) Transportation facilities, such as streets,
36 bridges, roadways, fords, airports, pipe lines, railroads, and utility
37 transmission facilities.

38 (3) Temporary or seasonal flood plain occupancy,
39 such as circus sites, fair sites, carnival sites, boat ramps, camps, roadside
40 stands, and transient amusement facility sites.

41 (4) Water-related urban uses, such as wastewater
42 treatment facilities, storm sewers, electrical generating and transmission
43 facilities, and water treatment facilities.

44 (5) Other flood tolerant or open urban uses, such as
45 flood-proofed industrial and commercial buildings, race tracks, tennis
46 courts, park buildings, outdoor theatres, fills, truck freight terminals,
47 radio or TV towers, parking lots, and mineral extractions.

48 C. Standards for Floodway Special Use Permit Uses. All
49 Uses. No structure (Temporary or permanent), fill (including fill for roads

1 and levees) deposit, obstruction, storage of materials or equipment, or
2 other use may be allowed as a special exception use which, acting alone or
3 in combination with existing or future uses, unduly affects the capacity of
4 the floodway or unduly increases heights. Consideration of the effects of a
5 proposed use shall be based on a reasonable assumption that there will be an
6 equal degree of encroachment extending for a significant reach on both sides
7 of the stream. In addition all floodway special permit uses shall be sub-
8 ject to the standards contained in Section 47 D (2) of this Article.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
D. Procedures for Development Within Floodway.

(1) Any use listed in this ordinance as requiring a special use permit may be allowed only upon application to the Zoning Enforcement Officer on forms furnished by him and the issuance of a "Special Permit." Upon receipt of the application the Zoning Enforcement Officer shall forthwith submit it to the Board of Zoning Appeals.

(2) Procedure to be followed by the Board of Zoning Appeals in passing on special permits. Upon receiving an application for a special permit involving the use of fill, construction of structures, or storage of materials, the Board of Zoning Appeals shall, prior to rendering a decision thereon; request and receive the recommendation of the INRC as to the suitability of the proposed use in relation to the flood hazard. In passing upon such applications, the Board of Zoning Appeals shall consider all relevant factors specified in other sections of this ordinance:

- a The danger of life and property due to increased flood heights or velocities caused by encroachments.
- b The danger that materials may be swept on to other lands or downstream to the injury of others.
- c The proposed water supply and sanitation systems and the ability to these systems to prevent disease, contamination, and unsanitary conditions.
- d The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- e The importance of the services provided by the proposed facility to the community.
- f The requirements of the facility for a waterfront location.
- g The availability of alternative locations not subject to flooding for the proposed use.
- h The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i The relationship of the proposed use to the comprehensive plan and flood-plain management program for the area.
- j The safety of access to the property in times of flood for ordinary and emergency vehicles.

1 k The expected heights, velocity, duration,
2 rate of rise, and sediment transport of
3 the flood waters expected at the site.

4 l Such other factors which are relevant to
5 the purposes of this ordinance.

6 E. Fill.

7 (1) Any fill proposed to be deposited in the flood-
8 way must be shown to have some beneficial purpose and the amount thereof not
9 greater than is necessary to achieve that purpose, as demonstrated by a plan
10 submitted by the owner showing the uses to which the filled land will be put
11 and the final dimensions of the proposed fills or other materials.

12 (2) Such fill or other materials shall be protected
13 against erosion by riprap, vegetation cover, or bulkheading.

14 F. Structures (temporary or permanent).

15 (1) Structures shall not be designed for human
16 habitation.

17 (2) Structures shall have a low flood-damage poten-
18 tial.

19 (3) The structure or structures, if permitted, shall
20 be constructed and placed on the building site so as to offer the minimum
21 obstruction to the flow of flood waters.

22 a Whenever possible, structures shall be
23 constructed with the longitudinal axis
24 parallel to the direction of the flow of
25 flood waters.

26 b So far as practicable, structures shall be
27 placed approximately on the same flood-
28 flow lines as those of adjoining struc-
29 tures.

30 (4) Structures shall be firmly anchored to prevent
31 flotation which may result in damage to other structures, restriction of
32 bridge openings and other narrow sections of the stream or river; and,

33 (5) Service facilities such as electrical and hear-
34 ing equipment shall be constructed at or above the regulatory flood-protec-
35 tion elevation for the particular area or flood-proofed.

36 G. Storage of Material and Equipment.

37 (1) The storage or processing of materials that are
38 in time of flooding buoyant, flammable, explosive, or could be injurious to
39 human, animal, or plant life is prohibited.

40 (2) Storage of other material or equipment may be
41 allowed if not subject to major damage by floods and firmly anchored to
42 prevent flotation or if readily removable from the area within the time
43 available after Flood warning.

44 Section 33-48. Floodway-Fringe District. (FF)

45 A. Floodway-Fringe District. All facilities, structures,
46 and buildings normally found in a community, such as businesses, medical

1 facilities, community and government buildings, industrial facilities,
2 restaurants, commercial facilities, storage facilities, utility buildings,
3 amusement facilities, residential buildings, and civic or fraternal facili-
4 ties, may be constructed in a floodway fringe district provided that the
flood protection grade for all buildings shall be at least at or above the
regulatory flood profile and that the zoning shall be proper.

5 B. Procedure. Before the issuance of an Improvement
6 Location Permit, the Zoning Enforcement Officer shall determine that the
proposed use meets the requirements and intent of this ordinance.

7 Section 33-49. Conditions Attached to "Special Permits"

8 Upon consideration of the factors listed above and the purpose of
9 this ordinance, the Commission may attach such conditions to the granting of
10 special permits and variances as it deems necessary to further the purpose
of this ordinance.

11 Section 33-50. Nonconforming Uses.

12 All land uses now existing in flood hazard areas not in full
13 compliance with this rule shall be considered a nonconforming use. Except
14 for normal maintenance, any building which constitutes a nonconforming use
15 may be altered, repaired, enlarged, or extended, provided such alterations,
16 repairs, enlargements, or extensions do not increase the value of the
17 building, excluding the value of the land, by more than fifty percent (50%)
18 of its pre-improvement market value, and the alterations, repairs, enlarge-
19 ments, or extensions are not otherwise prohibited or restricted by state law
20 or local ordinances. Any building which constitutes a nonconforming use
which is damaged by flood, fire, explosion, act of God, or the public enemy,
may be restored to its original dimensions and condition, provided the
damage does not reduce the value of the land by more than fifty percent
(50%) of its pre-damaged market value. Any repairs, alteration, enlarge-
ments, or extensions, of any existing nonconforming use which does not
involve a building is subject to the provisions of this ordinance.

21 Section 33-51. Variances.

22 This ordinance promulgates standards and procedures essential to
23 assure reasonable protection to present and future uses within the flood
24 plain. However, there may be a need from time to time, to permit variances
from these standards in particular cases within areas which are almost
entirely developed. The Board may grant such variances only where the
following conditions are met:

25 (1) The structure or use is located on a lot of one
26 half acre or less and is surrounded by existing structures; and,

27 (2) Good and sufficient cause exists for granting
the variance; and,

28 (3) Failure to grant the variance would result in
29 extreme hardship to the owners of the land; and,

30 (4) All possible efforts are made to minimize poten-
tial flood damages.

31 If the Board grants a variance according to the above, it must give written
32 notice to the applicant. This written notice shall include:

1 (1) The fact that the proposed structure will be
2 located in a flood prone area.

3 (2) The number of feet that the lowest floor of the
4 proposed structure will be below the 100-year flood level.

5 (3) The fact that the flood insurance rates will be
6 increased commensurate with the distance below the 100-year flood level.

7 This notice shall be attached to the building permit and must be displayed
8 with it.

9 Section 33-52. Warning and Disclaimer of Liability.

10 The degree of flood protection required by this ordinance is
11 considered reasonable for regulatory purposes and is based on engineering
12 and scientific considerations. Larger floods can and will occur on rare
13 occasions. Flood heights may be increased by man-made or natural causes,
14 such as ice or debris jams. This ordinance does not imply that area outside
15 flood hazard areas, as defined herein, will be free from flooding or flood
16 damages. This ordinance does not create liability on the part of the State
17 of Indiana, the INRC, the Board, the Commission, or the City of Fort Wayne,
18 or any elected or appointed official or employee thereof for any flood
19 damages that result from reliance on this rule or any administrative deci-
20 sion lawfully made thereunder.

21 Section 33-53. Severability.

22 If any section, clause, provision or portion of this Ordinance is
23 adjudged unconstitutional or invalid by a court of competent jurisdiction,
24 the remainder of this Ordinance shall not be affected thereby.

25 SECTION 33-54. That this ordinance shall be in full force and effect
26 from and after its passage, approval by the Mayor and due legal publication
27 thereof.

28
29
30
31
32

Councilman

Bill No. 79-12-15

TABLE OF CONTENTS

out
PAGE

ARTICLE I.	PURPOSE	1
Section 1		1
ARTICLE II.	GENERAL PROVISIONS	1
Section 2	Rules of Construction	1
Section 3	Definitions	1
Section 4	Structures and Uses Affected by Zoning	7
Section 5	Continuance of Nonconforming Structures or Uses	7
A.	Nonconforming Structures	7
B.	Nonconforming Uses	7
Section 6.	Amortization of Nonconforming Uses or Buildings	7
Section 7.	Nonconformance Due to Re-Classification--	8
Section 8.	General Use Provisions	8
A.	District Classifications	8
B.	Off-Street Parking	8
C.	Off-Street Loading and Unloading	11
D.	Parking Area Improvement	11
E.	Permanency of Spaces Provided	13
F.	Front and Side Yards in All Residential Districts	13
ARTICLE III.	DISTRICTS	13
Section 9.	Establishment and Designation	13
Section 10.	Boundaries	14
ARTICLE IV.	DISTRICT REGULATIONS	14
Section 11.	Conformity With Chapter Required	14
Section 12.	Contingent Uses - All Districts	14
Section 13.	Special Uses - Specified Districts	15
Section 14.	Permitted Uses - Specified Districts	19
A.	"R1" District	19
B.	"R2" District	20
C.	"R3" District	20
D.	"RA" and "RB" District	21
E.	"B1A" District	24
	"B1B" District	26
F.	"B2" - "B2A" - Regional & Neighborhood Shopping Centers	27
G.	"B3A" and "B3B" District	31
H.	"B4" District	33
I.	"M1" District	34
J.	"M2" District	35
K.	"M3" District	36
L.	"IA" District	36
M.	"MHP" District	41
N.	Planned Unit Development	44
Section 15.	Height Requirements - All Districts	57
Section 16.	Residential Lot Area Requirements	60
Section 17.	Yard Requirements - All Districts	63
Section 18.	Lot Coverage in Specified Districts	67
Section 19.	Residential Building Size - Specified Districts	67

1	ARTICLE V.	ADMINISTRATION AND ENFORCEMENT -----	68
2	Section 20.	Improvement Location Permit -----	68
3	Section 21.	Certificate of Occupancy -----	69
4	Section 22.	Completion of Existing Buildings -----	69
5	Section 23.	Enforcement -----	70
6	Section 24.	Filing Fees -----	70
7	Section 25.	Penalties -----	70
8	ARTICLE VI.	BOARD OF ZONING APPEALS -----	71
9	Section 26.	Organization -----	71
10	Section 27.	Meetings -----	71
11	Section 28.	Procedure -----	71
12	Section 29.	Powers of the Board of Zoning Appeals ---	71
13	ARTICLE VII.	PRIVATE RESTRICTIONS -----	72
14	Section 30.	When Chapter More Restrictive -----	72
15	Section 31.	When Other Provisions More Restrictive --	72
16	ARTICLE VIII.	SEVERABILITY -----	72
17	Section 32.	-----	
18	ARTICLE IX.	HISTORICAL DISTRICTS -----	72
19	Section 33.	Purpose -----	72
20	Section 34.	Definitions -----	73
21	Section 35.	Creation of the Historic Preservation Review Board -----	74
22	Section 36.	Establishment and Regulation of Historic Preservation Districts -----	74
23	Section 37.	Certificates of Appropriateness -----	75
24	Section 38.	Pre-Existing Historic Districts -----	77
25	Section 39.	Enforcement & Penalties -----	77
26	Section 40.	Saving Clause -----	78
27	ARTICLE X.	FLOOD PLAIN MANAGEMENT AND CONTROL -----	78
28	Section 41.	General Criteria For Flood Plain Regulations -----	78
29	Section 42.	Definitions -----	78
30	Section 43.	Flood Hazard Area Delineation -----	80
31	Section 44.	Establishment of District Boundaries ---	80
32	Section 45.	District Boundaries Changes Thereto ----	80
33	Section 46.	General Flood Plain District (GF) -----	80
34	Section 47.	Floodway Districts (FW) -----	81
35	Section 48.	Floodway - Fringe District (FF) -----	83
36	Section 49.	Conditions Attached to "Special Permits"-	84
37	Section 50.	Nonconforming Uses -----	84
38	Section 51.	Variances -----	84
39	Section 52.	Warning and Disclaimer of Liability ----	85
40	Section 53.	Severability -----	85

GENERAL ORDINANCE NO. G-_____

AN ORDINANCE classifying, regulating and restricting the location, height, area, bulk and use of buildings and structures and the use of land within the territorial jurisdiction of the City Plan Commission of the City of Fort Wayne, Indiana, for said purposes dividing such territory into districts, and amending Chapter 33 of the Code of the City of Fort Wayne, Indiana, 1974.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Chapter 33 of the Code of the City of Fort Wayne, Indiana, of 1974, be and the same is hereby amended to be and read as follows:

ARTICLE I. PURPOSE

Section 1. The zoning regulations and zone districts as herein set forth are made in accordance with a comprehensive plan in order that adequate light, air, convenience of access, and safety from fire, flood and other danger may be secured; that congestion in the public streets may be lessened or avoided; and that the public health, safety, comfort, morals, convenience and general public welfare may be promoted. They are made with reasonable regard to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted and the conservation of property values throughout the territory under the jurisdiction of the City Plan Commission of the City of Fort Wayne, Indiana.

ARTICLE II. GENERAL PROVISIONS

Section 2. RULES OF CONSTRUCTION. In this chapter words used in the present tense include the future, the singular includes the plural and the plural the singular. Unless otherwise specified, all distances shall be measured horizontally, in any direction.

Section 3. DEFINITIONS. The following terms, unless a contrary meaning is required by the context or specifically otherwise prescribed, shall have the following meanings:

(A) Accessory Building and Use

(1) A building or use subordinate to another structure or use located on the same lot and which does not change or alter the character of the premises.

(2) Public utility communication, electric, gas, water and sewer lines, their supports and incidental equipment.

(3) Where a substantial part of the wall of an accessory building is part of the wall of the main building or where an accessory building is attached to the main building in a substantial manner as by a roof, such accessory building shall be counted as part of the main building.

(B) Accessory Living Quarters - Living quarters within an accessory building for the sole use of persons employed on the premises; such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling.

(C) Alley - A right-of-way other than a street, road, crosswalk or easement, designed for the special accommodation of the property it reaches.

(D) Block Face - The side of two city blocks that face a common street.

(E) Block Group - A block group is a combination of contiguous blocks having a combined average population of about 1,000. Block groups are approximately equal in area (discounting parks, cemeteries, railroads, yards, industrial plants, rural areas, etc.); they are subdivisions of census tracts which simplify numbering and data control. Each block is identified by the first digit of the three-digit block number. Block group "1" will contain any block in range 101-199, block group "2" in range 201-299, etc.

(F) Board - the Board of Zoning Appeals of the City of Fort Wayne.

(G) Building - A structure having a roof supported by columns or walls designed, built or used for the enclosure, shelter or protection of persons, animals, chattels or property.

(H) Building, Detached - A building having no structural connection with another building.

(I) Building, Height of - The vertical distance measured from the adjoining street centerline grade at a point opposite the center of the principal frontage of the building to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the mean heights level between the eaves and ridge of a gable, hop or gambrel roof. Where the buildings are set back from the street line, the heights of the building may be measured from the average elevation of the finished lot grade at the front of the building.

(J) Building Line - The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way line.

(K) Building, Main - A building constituting the principal use of a lot.

(L) Building, Nonconforming - A legally existing building which fails to comply with the regulations set forth in this chapter applicable to the district in which such building is located.

(M) Building, Semi-Detached - A main building having one wall in common with an adjacent main building.

(N) Camp Ground - Any area or tract of land used or rented for occupancy by campers using tents for periods not to exceed two weeks.

(O) Cemetery - Land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

(P) Certificate of Occupancy - A certificate issued by the Zoning Enforcement Officer stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this chapter.

(Q) Clinic or Medical Health Center - An establishment where patients are admitted for special study and treatment by two or more

1 licensed physicians and their professional associates, practicing medicine
2 together.

3 (R) Commission - The Fort Wayne City Plan Commission.

4 (S) District or Zone - A section of the territorial juris-
5 dictional area of the Fort Wayne City Plan Commission for which uniform
6 regulations governing the use, heights, area, size and intensity of use of
7 buildings and land, and open spaces about buildings are established by this
8 chapter.

9 (T) Dwelling - A building of portion thereof, used pri-
10 marily as a place of abode for one or more human beings, but not including
11 hotels, lodging or boarding houses or tourist homes.

12 (U) Dwelling, Multiple Family - A building or portion
13 thereof used for occupancy by two, three or more families living independ-
14 ently of each other.

15 (V) Dwelling, One Family - A building used for occupancy
16 by one family.

17 (W) Dwelling, Two Family - A building used for occupancy
18 by two families living independently of each other.

19 (X) Dwelling Unit - A dwelling or a portion of a dwelling
20 or of an apartment hotel used by one family for cooking, living and sleeping
21 purposes.

22 (Y) Educational Institution - Public, parochial, charit-
23 able or non-profit junior college, college or university, other than trade
24 or business schools, including instructional and recreational uses, with or
25 without living quarters, dining rooms, restaurants, heating plants and other
26 incidental facilities for students, teachers and employees.

27 (Z) Extended Group Home - A facility located in a residen-
28 tial community providing shelter and/or rehabilitation for from seven (7) to
29 fourteen (14) children under the age of eighteen (18) years, referred by a
30 governmental body or duly licensed social service agency, who for various
31 reasons cannot reside in their family home. Twenty-four hour adult super-
32 vision is mandatory and professional supervision and consultation is avail-
able to both child care staff and children. The purpose of this type of
facility is to provide a service for the child who does not need the struc-
ture of an institution in that he/she does not present a threat to the
community, yet is not a foster home candidate. The goal of the service is
to return home, other placement or emancipation, depending upon the age of
the child and the circumstances of his/her family.

33 (AA) Family - One or more persons living as a single house-
34 keeping unit, as distinguished from a group occupying a hotel, club, nurses
35 home, fraternity or sorority house. A family shall be deemed to include
36 servants.

37 (BB) Garage, Private - A detached accessory building or a
38 portion of a main building, used for the storage of self-propelled vehicles
39 where the capacity does not exceed three vehicles, or not more than one and
40 one-half vehicles per family housed in the building to which such garage is
41 accessory, whichever is the greater.

42 (CC) Garage, Public - Any building or structure other than
43 a private garage, and which is used for storage, repair, rental, greasing,
44 washing, servicing, adjusting or equipping of automobiles or other motor
45 vehicles.

(DD) Half-Way House - A resident facility for sixteen (16) or less persons eighteen (18) years of age or older, referred by a governmental body or duly licensed social service agency, which provides short-term rehabilitative services in a transitional environment, to persons who are physically, emotionally or socially handicapped. The goal of the service is to aid the individual's successful re-entry into the community as an independent and a productive member.

(EE) Home Occupation - Any use conducted entirely within a dwelling and participated in solely by members of the family, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof and in connection with which there is no commodity sold upon the premises except that which is produced thereon, and provided, however, in no event shall a barbershop, beauty parlor, tea room or animal hospital be construed as a home occupation.

(FF) Hotel or Motel - A structure or portion thereof in which more than five guest rooms are used to provide or offer temporary accommodations for transient guests.

(GG) Improvement Location Permit - A permit issued by the Zoning Enforcement Officer stating that the proposed erection, construction, enlargement or moving of the building or structure referred to therein complies with the provisions of this chapter.

(HH) Junkyard - Including Automobile Wrecking - a lot or a part thereof used for the storage, keeping, dismantling, abandonment or sale of junk, scrap metal, scrap vehicles or scrap machinery or parts thereof.

(II) Kennel, Animal - Any place where more than three dogs or more than three any single type of domestic animals are kept. For this purpose such animals shall not be counted until they reach the age of six months.

(JJ) Limited Group Home - A facility located in a residential community providing shelter and/or rehabilitation for six (6) or less children under the age of eighteen (18) years, referred by a governmental body or duly licensed social service agency, who for various reasons cannot reside in their family home. Twenty-four hour adult supervision is mandatory and professional supervision and consultation is available to both child care staff and children. The purpose of this type of facility is to provide a service for the child who does not need the structure of an institution in that he/she does not present a threat to the community, yet is not a foster home candidate. The goal of the service is to return home, other placement or emancipation, depending upon the age of the child and the circumstances of his/her family.

(KK) Lodging House - A building with more than two but not more than ten (10) guest rooms where lodging with or without meals is provided.

(LL) Lot - A parcel, tract or area of land, it may be single parcel separately described in a deed or plat which is recorded in the Office of the County Recorder; it may be a part of a single parcel described in a deed or plat which is recorded in the office of the County Recorder, provided the part to be used is adequate in size to meet all yard requirements of the Zoning Ordinance; or it may include parts of a combination of such parcels when adjacent to one another and used as one. In determining lot area and boundary lines, no part thereof within the limits of the street or any private access serving more than one main building shall be included.

(MM) Lot, Corner - A lot at the junction of and abutting two or more intersecting streets.

(NN) Lot, Front - That part of a lot adjacent to and parallel with the street. The front of a corner lot shall be considered as that part of the lot having the least amount of footage adjacent to and parallel with either one of the streets. Whenever such footage is the same on both of such streets, either part of the corner lot may be considered as the front of the lot.

(OO) Lot, Through - A lot having frontage on two parallel or approximately parallel streets.

(PP) Lot Width - The dimension of a lot, measured between side lot lines on the building line.

(QQ) Mobile Home, Dependent - A mobile home which requires service connection for sewer, water and power facilities and which is so designed or constructed to permit occupancy for dwelling or sleeping purposes.

(RR) Mobile Home, Independent - One which does not require service connections for sewer, water or power and is so designed or constructed as to permit occupancy for dwelling or sleeping purposes.

(SS) Mobile Home Park - Any tract of ground designed for use or used by one or more mobile homes which provides the necessary services such as water, sewer and power connections for the dependent-type mobile homes as defined in this ordinance.

(TT) Parking Area, Public - An open area, other than a street or alley designed for use or used for the temporary parking of more than four motor vehicles when available for public use, whether free or for compensation, or as an accommodation for clients or customers.

(UU) Parking Space (Off-Street, One) - A space other than on a street or alley designed for use or used for the temporary parking of a motor vehicle, and being not less than 9 feet wide and 20 feet long exclusive of passageways.

(VV) Person - A corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.

(WW) Private School - Private preprimary, primary, grade, high or preparation school or academy.

(XX) Sign - Any board, device or structure or part thereof used for advertising, display or publicity purposes. Signs placed or erected by governmental agencies for the purposes of showing street names or traffic directions or regulations for other governmental purposes shall not be included herein.

(YY) Story - That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above it, then the space between any floor and the ceiling next above it; also any portion of a building used for human occupancy between the topmost floor and the roof. A basement shall not be counted as a story unless the height of the surface of the first floor above the average elevation of the finished lot grade at the front of the building exceeds four (4) feet.

(ZZ) Story, Half - A story under a gable, hop or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

(AAA) Street - A public way established or dedicated by duly recorded plat, deed, grant, governmental authority or by operation of law.

(BBB) Structure - Anything constructed or erected which requires location in or on the ground or attachment to something having a location in or on the ground.

(CCC) Territorial Jurisdiction - The City of Fort Wayne, Indiana, and the contiguous unincorporated areas outside of the City of Fort Wayne shown on a map on file in the office of the County Recorder of Allen County, Indiana.

(DDD) Tourist Home - A building in which one but not more than five (5) guest rooms are used to provide or offer overnight accommodations for transient guests.

(EEE) Trade or Business School - Secretarial or Business School or College when not publicly owned or not owned or conducted by or under the sponsorship of a religious, charitable or non-profit organization; or a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering or hair dressing, drafting or for teaching industrial or technical skills.

(FFF) Trailer Park - Any tract of ground designed for use or used by one or more trailers of the independent mobile home type defined in this ordinance and which is used for dwelling or sleeping purposes regardless of whether a charge is made for such accommodation.

(GGG) Use - The employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

(HHH) Use, Nonconforming - An existing use of land or building which fails to comply with the requirements set forth in this chapter applicable to the district in which such use is located.

(III) Use, Open - The use of a lot without a building or including a building incidental to the open use with a ground floor area equal to five (5) percent or less of the area of the lot.

(JJJ) Yard - A space on the same lot with a main building, open, unoccupied and unobstructed by structures, except as otherwise provided in this chapter.

(KKK) Yard, Front - A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way line and the building line.

(LLL) Yard, Rear - A yard extending across the full width of the lot between the rear of the main building and the rear lot line the depth of which is the least distance between the rear lot line and the rear of such main building.

(MMM) Yard, Side - A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at 90 degrees with the side lot line, from the nearest point of the side lot line to the nearest part of the main building.

(NNN) Zoning Enforcement Officer - An official of the Plan Commission Staff of the City of Fort Wayne, Indiana who issues any and all required permits and enforces the provisions of this chapter and the planning and zoning laws of the State of Indiana within the planning jurisdiction of the Fort Wayne Plan Commission.

Section 4. STRUCTURE AND USES AFFECTED BY ZONING. No Structure or land shall hereafter be used and no structure or part thereof shall be erected, moved or altered unless in conformity with the provisions of this chapter.

Section 5. CONTINUANCE OF NONCONFORMING STRUCTURES OR USES.

A. Nonconforming Structures.

(1) Maintenance Permitted - A nonconforming structure lawfully existing upon March 1, 1955 may be maintained, except as otherwise provided in this section.

(2) Repairs - A non-conforming structure may be repaired or altered provided no structural change shall be made.

(3) Additions, Enlargements or Moving.

(a) A structure nonconforming as to use or lot area per dwelling unit shall not be added to or enlarged in any manner unless such structure, including such addition or enlargement, is made to conform to the use and area requirements of the district in which it is located.

(b) A structure nonconforming as to heights or yard requirements shall not be added to or enlarged in any manner unless such addition or enlargement conforms to all the requirements of the district in which it is located.

(c) No nonconforming structure shall be moved in whole or in part to any other location on the lot on which it is located unless every portion of such structure is made to conform to all the requirements of the district in which it is located.

B. Nonconforming Uses.

(1) Continuation and Change of Use - Except as otherwise provided in this chapter:

(a) A nonconforming use lawfully existing upon the effective date of this chapter may be continued.

(b) A nonconforming use may be changed only to a use of the same or more restricted classification.

(2) Expansion Prohibited

(a) A nonconforming use of a structure designed for a conforming use shall not be expanded or extended into any other portion of such conforming structure nor changed except to a conforming use.

(b) A nonconforming use on a part of a lot shall not be expanded or extended into any other portion of such lot.

Section 6. AMORTIZATION OF NONCONFORMING USES OR BUILDINGS.

A. Whenever a nonconforming use has been discontinued for a period of twelve (12) months such use shall not thereafter be re-established and use thereafter shall conform to the provisions of this chapter.

B. No building damaged by fire or other causes to the extent that its restoration will cost more than double its assessed valuation shall be repaired or rebuilt except to conform to the provisions of this chapter.

C. A nonconforming open use of land lawfully existing upon March 1, 1955 shall be discontinued on or before March 1, 1960.

D. Any nonconforming billboard or advertising structure not attached to a building, lawfully existing upon March 1, 1955 shall be discontinued on or before March 1, 1965.

Section 7. NONCONFORMANCE DUE TO RE-CLASSIFICATION. The provisions of Sections 5 and 6 shall also apply to structures and uses which hereafter become nonconforming due to any zoning reclassification or inclusion pursuant to this chapter or any change in the provisions in this chapter and any open use of land referred to in subsection (c) of Section 6 which has existed as a nonconforming open use of land under Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance 2836 adopted January 11, 1955, shall be discontinued when said land has existed as a nonconforming open use for a period of five (5) years; or has been a nonconforming open use of land under this Act as amended plus any nonconforming open use of land under this Act as amended plus any nonconforming open use under the zoning laws of Allen County, Indiana for periods of time totaling five (5) years.

Section 8. GENERAL USE PROVISIONS.

A. District Classification.

The terms R District, B District or M District shall be deemed to refer respectively to all district designated by the same letter; e.g., B District shall include the B1A, B1B, B2, B2A, B3A, B3B and B4 Districts.

B. Off-Street Parking.

(1) Minimum Requirements: The following off-street parking spaces shall be provided and maintained by the owner of or person using property for each building which is hereafter erected or the use of which is hereafter changed from a use described under any one of the numbered subparagraphs of the lettered subsections of Section 14 of this chapter, to a use described under a different numbered subparagraph of a lettered subsection of Section 14 of this chapter and which new use requires a greater number of parking spaces by the standards hereinafter in this subsection B prescribed:

- (a) For any dwelling unit - At least one and one half (1½) parking spaces plus one parking space for each two (2) sleeping rooms rented to persons not members of the family occupying the dwelling unit. (G-97-70, 8/25/70)
- (b) For any auditorium, gymnasium, stadium or theatre, or any other similar place of assembly, except churches - At least one parking space for each six (6) seats based on the maximum seating capacity, including fixed and movable seats.
- (c) For any hotel in a B3A or B3B District, apartment hotel, club house, dormitory, fraternity house or any other similar use - At least one parking space for each two (2) sleeping rooms.

- (d) For any hotel in a B4 District or any other similar use - At least one parking space for each sleeping room.
- (e) For any place of assembly without fixed seats - At least one parking space for each 120 square feet of gross floor area thereof.
- (f) For any bank, funeral home, office building, professional office, library, museum, welfare institution or any other similar use - At least one parking space for each 400 square feet of gross floor area thereof.
- (g) For any medical clinic or any other similar use - At least three parking space for each doctor or dentist using the clinic, plus one space for each two regular employees including nurses.
- (h) For any hospital, sanitarium, sanatorium, convalescent home or any other similar use - At least one parking space for each three beds or any portion thereof.
- (i) For any eating or drinking establishment or any other similar use where customers are seated and served within a building - At least one parking space for each 200 square feet of gross floor area thereof.
- (j) For any eating or drinking establishment or any other similar use where customers are served outside of a building - At least one parking space for each 50 square feet of gross area thereof, provided, however, that there shall be not less than six (6) parking spaces for each such establishment.
- (k) For any furniture store, household appliance store or mechanical trades display store or any other similar use - At least one parking space for each 1,000 square feet of gross ground floor area thereof plus one space for each 1,500 square feet of the gross area of floors other than the ground floor used for sales, display or show purposes.
- (l) For any food market establishment or any other similar use, with a gross floor area of less than 2,500 square feet - At least one parking space for each 200 square feet of gross floor area thereof.
- (m) For any food market establishment or any other similar use, with a gross floor area in excess of 2,500 square feet - At least one parking space for each 75 square feet of gross floor area thereof.

- (n) For any retail store or service, except those specified above - At least one parking space for each 400 square feet of gross floor area thereof.
- (o) For any manufacturing, processing, wholesaling, storage, or any other industrial use or commercial establishment not specifically set out in this subsection - At least one parking space for each two employees, plus sufficient spaces to park all company-owned or leased motor vehicles, semi-trailers and trailers.
- (p) For any Launderette, Laundromat, Self-Service Laundry, Washeteria or any similar use - At least one parking space for each two washing machine or portion thereof.
- (q) For any bowling alley - At least four parking spaces for each bowling alley thereof.
- (r) For any trailer coach park - At least one parking space on the same parcel of land for each individual house trailer.
- (s) For any commercial or business office having a gross floor area in excess of 10,000 square feet and occupied solely by the employees of one person, as defined in this chapter - At least one parking space for each 800 square feet of gross floor area thereof.

(2) Mixed Uses - In the case of mixed uses in the same building or structure, the total requirement for the off-street parking facilities shall be the sum of the requirements of the various uses computed separately on the basis of the items set out in this section and off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use except as hereinafter specified in Section 8B (3) hereof.

(3) Collective Parking Facilities - Nothing in this section shall be construed to prevent collective provision for any off-street parking facilities for two or more buildings or uses; provided, however, that the total number of off-street parking spaces shall not be less than the sum of the requirements for the various individual uses involved computed separately on the basis of the items set out in this section.

(4) Where Provided - All parking spaces provided pursuant to this section shall be on the same lot with the building or use for which such spaces are required, except that the Board, after public hearing, may permit the parking spaces to be on any lot within three hundred feet of the building; provided, that the requirements of subparagraphs (d) and (r) of paragraph (1) of this subsection shall not be waived; provided, however, that if the Board determines, after public hearing, that it is impractical to provide parking spaces on the same lot with the building or use for which such spaces are required, or within three hundred feet thereof, the Board may permit the parking spaces to be on a lot a greater than three hundred feet from such building or use, subject to appropriate conditions imposed by the Board regarding such location, character or other features of the proposed lot for parking spaces as are reasonably required

for the purpose of this chapter; provided, further, that in the area bounded by the Pennsylvania Railroad right-of-way, Webster Street, Superior Street and Lafayette Street, if the Board determines, after public hearing, that any part of the area within three hundred feet of the building to be erected or use to be established is regularly occupied or used by existing structures or uses, or is otherwise unavailable, the Board shall waive all of the requirements of this subsection B as to all parking spaces not provided by reason of such occupancy, use or other unavailability.

(5) Distance Measurements - The distance to any parking space area as herein required shall be measured between the nearest point of the off-street parking facility and the nearest point of the building said parking facility is to serve.

(6) Access - All parking facilities provided pursuant to this section, except those required by subparagraphs (a), (g) and (o) of subsection (1) above, shall be directly accessible from a street.

C. Off-Street Loading and Unloading.

On the same premises with every building, structure or part thereof, hereafter erected, established or enlarged and occupied for manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, laundry, dry cleaning or other uses, involving the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained space for vehicles standing, loading, and unloading as follows:

A 12-foot by 35-foot loading space with 14-foot height clearance for every 20,000 square feet or fraction thereof on floor area in excess of 3,000 square feet of floor area used for abovementioned purposes, or for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of land used for the abovementioned purposes. Provided, however, that in no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirements of this chapter.

D. Parking Area Improvement.

(1) The Board of Public Works of the City of Fort Wayne is hereby authorized and required to prescribe minimum specifications for paving, surfacing, drainage of all land used for off-street parking, whether required by this chapter or otherwise, and all driveways thereto.

(2) All land which is hereafter placed in use for off-street parking and all driveways thereto, and all land which has been put to such use since on or after December 3, 1969, and which is hereafter to be used for off-street parking; shall be paved or surfaced and shall be drained with materials and in a manner which meets the minimum specifications and standards for parking lots adopted December 2, 1969, by the Board of Public Works of the City of Fort Wayne, and any current or future amendments thereto by said Board, provided, however, that nothing contained in this Paragraph D shall be deemed to require the paving of any off-street parking space or driveway thereto for any dwelling unit. Any proposed drainage plan must be approved by the Board of Public Works prior to the issuance of any Driveway Access Permit.

(3) All land which is located within the boundaries of St. Mary's River on the North, Clay Street on the East, Penn Central Railroad on the South, and Fairfield Avenue on the West, in the City of Fort Wayne, Indiana, which has been and/or hereafter is used for off-street parking, and all driveways thereto, must be paved or surfaced and drained as provided in the preceding paragraph.

4742

(4) All land which is hereafter used and has been used continuously for off-street parking and for driveways thereto, on or prior to December 2, 1969, must be surfaced with compacted crushed stone of uniform size and texture of not less than three (3) inches depth and in a manner which prevents such material from eroding, washing or otherwise being deposited on public sidewalks and street right-of-ways. Any continuing violation of this paragraph for a period of ninety (90) days after notice of such violation has been mailed by the Board of Works to the owner of the land as shown on the tax duplicates in the Office of the Assessor of Allen County, Indiana, shall constitute a nuisance in violation of this chapter, shall be unlawful, and such use shall be subject to all penalties provided in this chapter; provided however, that nothing contained in this paragraph shall be deemed to require the paving of any off-street parking space or driveway thereto for any dwelling unit.

(5) All land in or adjoining an R or B District which is hereafter placed in use for off-street parking, except for any dwelling unit, shall be landscaped to aid in controlling the circulation of cars and pedestrians, to identify entrances and exits, and to improve the appearance of such use to maintain property values in the area and the following specific landscaping requirements must be satisfied:

(a) All open, off-street parking areas shall provide and maintain shade trees of a variety hardy to this region and totaling not less than 1% of the surfaced parking area. The minimum size tree island shall not be less than 70 square feet.

(b) Screening, consisting of a hedge, wall, or uniformly painted fence to provide a visual separator and physical barrier with maximum height of four feet shall be provided between said off-street parking and all R and B areas. These lots adjacent to a residential district shall provide screening between such land and the R District not less than six (6) feet in height.

(c) The total landscaped (green) area for any parking lot shall not be less than 10% of the gross area developed. The owner shall be responsible for the perpetual maintenance of the green space.

(6) Set-Backs - All land used for off-street parking in districts for which front yards are required by this chapter shall be located not less than five (5) feet from any property line abutting on a street; provided, however, that nothing contained in this Paragraph D shall be deemed to apply to any off-street parking space or driveway thereto for any single family dwelling unit. All parking lots shall have curbsings around perimeters at a sufficient location to keep vehicles from overhanging or encroaching upon abutting properties, streets, alleys or sidewalks. Curbsings are also to be used to facilitate drainage and insure no discharge of water onto abutting properties.

(7) Lighting - Any light used to illuminate land used for off-street parking or driveways thereto shall be installed on private property and maintained so as to reflect the light away from any adjoining R District. It shall also be designed to avoid glare into street right-of-way.

(8) Permit - Any person constructing a parking lot pursuant to the provisions herein after March 1, 1955 shall obtain an improvement location permit. Said permit shall be issued after applicant has submitted evidence that his proposed off-street parking area improvement shall comply with provisions herein.

E. Permanency of Spaces Provided.

Any parking or loading space which was established prior to March 1, 1955 and which is used or intended to be used in connection with any main building, structure or use, or any spaces designed and intended to comply with the requirements of this chapter for any such main buildings or structure erected after March 1, 1955, shall hereafter be maintained so long as said building or structure remains, unless the owner provides and maintains in another location an equivalent number of required spaces which conform to the provisions of this chapter.

F. Front and Side Yards in All Residential Districts.

No required front yard, and no required side yard adjacent to a street, may be used to satisfy the off-street parking or loading requirements of this Section 8.

G. No trailer, mobile, mobile unit, or other temporary facility, shall be used for school, church or other non-residential use for a period longer than two (2) years for school use and one (1) year for church use unless the period is extended by variance duly granted by the Board of Zoning Appeals; provided that in no event shall such temporary facilities be permitted where permanent use for the purpose is not permitted or authorized; provided further that such temporary facilities used in connection with a construction project may be used in any district where the use of the completed structure would be permitted as long as the construction is proceeding with reasonable diligence.

ARTICLE III. DISTRICTS

Section 9. ESTABLISHMENT AND DESIGNATION. For the purpose of this chapter the City is hereby divided and classified into nineteen (19) districts designated as follows:

Designation, R1, One Family Residence District
 Designation, R2, Two Family Residence District
 Designation, R3, Multiple Family Residence District
 Designation, RA, Residence District A
 Designation, RB, Residence District B
 Designation, B1A, Limited Business District
 Designation, B1B, Limited Business District
 Designation, B2, Regional Shopping Center District
 Designation, B2A, Neighborhood Shopping Center District
 Designation, B3A, General Business District A
 Designation, B3B, General Business District B
 Designation B4, Roadside Business District
 Designation, M1, Light Industrial District
 Designation, M2, General Industrial District
 Designation, M3, Heavy Industrial District
 Designation, IA, Interchange Access Center District
 Designation, MHP, Mobile Home Park
 Historical District
 Flood Plain District

The above districts and their respective boundaries are hereby established as shown by the symbols on the map entitled, "City of Fort Wayne Zoning Map," dated September 16, 1969, which is on file in the Office of the Plan

4742

Commission which map and all explanatory matter thereon by reference is incorporated herein and made a part hereof.

Lands which may hereafter be included or re-included in the territorial jurisdiction of the City Plan Commission shall automatically become classified in the following corresponding City zoning districts when such lands at the time of their inclusion in the jurisdiction of the City Plan Commission are classified under the zoning laws of the County, as indicated below, subject to amendment as provided in this chapter:

COUNTY DISTRICT DESIGNATION	CORRESPONDING CITY DISTRICT DESIGNATION
A1 Agricultural	RA Residence, District A
A2 Flood Plain	RB Residence, District B
A3 Estate	RA Residence, District A
RS1 Suburban Residential	R1 Single Family Residence Dist.
RS2 Multiple Family	R3 Multiple Family Residence Dist.
MH Mobile Homes	MHP Mobile Home Parks
C1A Professional Services	B1A Limited Business District A
C1 Limited Commercial	B1B Limited Business District B
C2 Planned Shopping	B2 Shopping Center District
C3 General Commercial	B3B General Business District B
C4 Roadside Commercial	B4 Roadside Business
C5 Commercial Interchange	IA Interchange Access Ctr. District
I-1 Light Industrial	M1 Light Industrial District
I-2 General Industrial	M2 General Industrial District
I-3 Heavy Industrial	M3 Heavy Industrial District
I-4 Planned Industrial	M2 General Industrial District

Section 10. BOUNDARIES.

Unless otherwise indicated, the district boundary lines are land lines, the center lines of streets, alleys, or railroad rights-of-way or such lines extended.

Where the street layout actually on the ground varies from the layout as shown on the zoning map, such shall be interpreted according to the reasonable intent of this chapter.

ARTICLE IV. DISTRICT REGULATIONS

Section 11. CONFORMITY WITH CHAPTER REQUIRED. No building or structure shall hereafter be constructed and no building, structure or land shall hereafter be used except in conformity with the provisions of this chapter as permitted.

Section 12. CONTINGENT USES - ALL DISTRICTS. The contingent uses hereinafter set forth shall be permitted by the Board, after public hearing, in any district where such uses are essential or desirable to the public convenience or welfare, provided, however, no permit for a contingent use shall be granted if the Board shall find that such use is in conflict with any plan duly adopted by ordinance of the Common Council. In granting such permit the Board may impose appropriate conditions regarding the location, character and other features of the proposed building, structure or use as are reasonably required by the purposes of this chapter.

A. Such Permitted Contingent Uses are Identified as Follows:

(1) Airport or Heliport

- (2) Cemetery
- (3) Governmental installation not otherwise permitted.
- (4) Hospital, Sanitarium, Sanatorium, Preventorium or Asylum not otherwise specified in this chapter.
- (5) Medical Health Center or Clinic
- (6) Public Utility facilities such as radio and television transmitter stations and towers; petroleum and natural gas transmission lines, pumping stations and facilities, electric substations and telephone exchanges where not otherwise permitted by this chapter; railroad lines; classification yards and terminals; and other similar uses of a public utility or public service nature; including structures and appurtenances for their enclosure, maintenance and operation.
- (7) Educational Institution
- (8) Private School
- (9) Golf Course
- (10) A not-for-profit neighborhood educational, recreational or cultural establishment or community association, including but not limited to: a branch YMCA, YWCA, CYO or Boy Scout building provided, however, that the dispensing of alcoholic beverages or any business activity on said premises shall not be permitted; and provided further that no permit shall be issued for such use unless the board shall first find that it will constitute a neighborhood activity center of a nature compatible with the character of the neighborhood in which it is to be located.
- (11) Public Parking Area, when used as an accessory use to a conforming use and within 300 feet of the main use or structure on the same, adjacent or detached lot, or when used as an accessory use to a nonconforming use lawfully existing on the effective date of this chapter and on the same lot or land contiguous thereto; subject to the regulations of Section 8; provided, however, that in no event shall the public parking area referred to in this subsection be construed as to include a structure as defined in paragraph 54 of Section 3 of this chapter. No permit under this subsection shall be required for parking areas permitted under Section 14.
- (12) Camp Grounds and Trailer Parks as defined in Section 3, in public parks, without action of the Board of Zoning Appeals, but subject to the standards and regulations of the Park Board or other public agency having jurisdiction over the public park.

Section 13. SPECIAL USES - SPECIFIED DISTRICTS

A. Special uses may be permitted by the Board after public hearing only in the specified districts indicated below. No permit for a special use shall be granted unless the Board shall have first found that the public convenience and welfare will be substantially served and that the proposed use will not be unduly detrimental to the surrounding area. In the exercise of its approval the Board may impose such conditions regarding the location, character and other features of the proposed building or structure or use as it may deem advisable in the furtherance of the purposes of this chapter.

B. In RA, RB, B3A, B3B, M1, M2 and M3 Districts, the Board may permit:

1 (1) Penal or correctional institution or sanitarium,
2 hospital or asylum for contagious, mental, drug or liquor addict cases.

3 (2) Fairground

4 (3) Transient amusement enterprise medicine show or
5 circus, the chief activity of which is carried on for gain or profit.

6 (4) Gun Club, Skeet Shoot or Target Range, provided
7 that satisfactory evidence is presented to the Board that adequate precau-
8 tions will be taken to safeguard the public from dangers of firearms used
9 therein.

10 (5) Animal Breeding and Raising for experimental
11 laboratory or fur production purposes, and Animal Kennels, as distinguished
12 from general livestock raising.

13 (6) Sanitary Land Fill

14 (7) Refuse Dump

15 (8) Golf driving range, putting green, or miniature
16 golf course.

17 (9) Gravel, Rock, Stone or Sand Extraction, Crush-
18 ing, Washing and Sorting - subject to the following requirements:

19 (a) Excavation:

20 (1) Final slopes of sand or gravel shall
21 not be steeper than one foot hori-
22 zontal or one foot vertical.

23 (2) Temporary operating cut slopes of
24 sand and gravel steeper than one
25 foot horizontal to one foot vertical
26 shall in no case be brought closer
27 to an exterior property line, right-
28 of-way line of any street, road, way
29 or alley, as existing or as proposed
30 in the Comprehensive Development
31 Plan than 50 feet where a sight
32 screen is provided or 75 feet in the
case where no provision is made for
sight screening.

(3) Explosives shall be used only
between sun-up and sun-down except
in the case of an emergency.

(4) Final sloping of quarry or sand and
gravel pit excavations shall be
accomplished within the time speci-
fied in the quarry or sand and
gravel pit permit or as extended by
the Board of Zoning Appeals.

(b) Drainage of Premises:

The finished excavation shall be graded
where possible in such a manner as to
prevent the stagnation of storm waters or
natural seepage.

Planting:

(c) Refilling, Erosion Control and Screen

- (1) Dikes or other barriers and drainage structures shall be provided to prevent silting of natural drainage channels or storm drains in the area surrounding the quarry or sand and gravel pit.
- (2) All final cut slopes shall be treated to prevent erosion; topsoil shall be replaced on such slopes to support vegetation; ground cover shall be planted within twelve months after a cut slope is excavated to its final position; and such ground cover shall be maintained for a period of time sufficient to provide vegetation or a density that will prevent erosion.
- (3) Where required, suitable plant material shall be placed and maintained to screen out slopes from public view.
- (4) Whenever quarrying or sand and gravel pit operations on any property have been completely exhausted, all buildings, structures or equipment not authorized under the permitted uses for the district in which the property is located, shall be entirely removed from such property within one year after such completion.

(d) Maintenance and Operation:

- (1) Quarries and sand and gravel pits shall be maintained at all times in a neat and orderly manner.
- (2) Quarries and sand and gravel pits shall be operated so as to keep dust and noise to a minimum and access roads shall be maintained as dust-free surfaces from the public street to within one hundred feet of the loading point within the quarry or sand and gravel pit.
- (3) Vehicles carrying materials from quarries or sand and gravel pits shall be loaded in such manner as to prevent spilling rock, gravel, sand or other materials of a mineral nature while in transit upon roads and highways.
- (4) Quarry or sand and gravel pit excavations which may penetrate near or into a usable water bearing stratum

shall be conducted in such a manner that any such stratum so approached or encountered will not be subject to pollution by operations or the excavation of a sand and gravel pit or subsequent to the abandonment of stone quarry or sand and gravel pit.

- (e) Continuance of Existing Quarry or Sand and Gravel Pit.

A quarry or sand and gravel pit operation lawfully existing upon the effective date of this amendment to this chapter may be continued so long as such continued use complies with the requirements of Subsections (a), (b), (c) and (d) of Section 1 of this amendment to this chapter.

- C. In B4, M1 and M2 Districts, the Board may permit:

- (1) Custom butchering, meat cutting and canning.

- (2) Livestock sales or auction, stock pens, except that such use shall not be permitted within 300 feet of an R District.

- (3) Trailer Park, as defined in Section 3, provided that the following standards are met:

- (a) No trailer park shall be located except with direct access to a primary, secondary street, major highway or expressway as shown on the Thoroughfare Plan for the City of Fort Wayne. In no event shall access to a trailer park be gained through a residential area or utilizing a residential type street. Also, the trailer park property shall have adequate frontage along the access road to provide for proper and safe ingress and egress to the trailer park area, considering the fact that an auto pulling a trailer is much longer and would require more maneuvering space than would normal automobile traffic.

- (b) All sanitary sewage facilities, including connections provided for trailer space occupancy, shall meet the minimum standards of the City of Fort Wayne Board of Health, Allen County Board of Health, or the State of Indiana Board of Public Health depending upon the agency having jurisdiction. In the event there is a duplication of any laws of any of these agencies, the agency with the most restrictive requirements shall prevail.

- (c) No trailer space in a trailer park shall be smaller than 30 feet in width and shall contain a minimum of 1,500 square feet of area for each trailer, exclusive of any street and/or driveway areas.

D. In considering a petition for any permitted Special Use, the Board shall give due regard to the following factors as they will apply to the particular situation:

(1) The location and size of the use; the nature and intensity of the operations involved in or conducted in connection with it; its site layout, including parking space requirements; and its relation to streets giving access to it so that vehicular traffic to and from the use will not create undue hazards to the normal traffic of the vicinity, taking into account among other things, vehicular turning movement in relation to routes of traffic flow, relation to street intersections, sight distances, and relation to pedestrian traffic.

(2) The nature, location, size, and site layout of the use so that it will be harmonious to the district in which it is situated.

E. (1) All special uses which existed March 1, 1955 and which are located in a district which would permit such use in accordance with the provisions of this section, shall be regarded as conforming uses and may be continued, except that major changes in layout, expansion or extension to such uses shall be subject to Board review and approval as required for Special Uses.

(2) All special uses hereafter authorized by the Board in accordance with the provisions of this section, shall be regarded as conforming uses and may be continued, except that major changes in layout, expansion or extension to such use shall be subject to Board review and approval as required for Special Uses.

F. In R3 Districts the Board may permit a branch bank, branch post office, currency exchange, branch library, loan office, professional or commercial office, public utility customer office, real estate office, studio or savings and loan association.

G. In R1, R2, R3, RA and RB Districts the Board may permit insurance and similar offices which satisfy all the requirements for "Home Occupation," as such term is defined in this chapter, for a period not to exceed one (1) year from the date of the special use Improvement Location Permit issued by authority of the Board. The Special Use Improvement Location Permit may be reissued on each subsequent annual expiration date for an additional year if the Board finds that the public convenience and welfare will be substantially served and that the proposed renewal will not be unduly detrimental to the surrounding area. A public hearing will not be required for renewal permits.

Section 14. PERMITTED USES - SPECIFIED DISTRICTS. The following uses shall be permitted in the district hereinafter specified:

A. "R1" District - One Family Residence

- (1) One Family Dwelling
- (2) Public Park or Recreation Area
- (3) Church, Public or Parochial Primary or Secondary School, including attached or free standing announcement or bulletin board, not exceeding 24 square feet in area.

(4) Home Occupation

(5) Limited Group Home, if its location is first approved by the Board following a public hearing.

(6) Day Nursery, if its location is first approved by the Board following a public hearing.

(7) Accessory Building and Use.

(8) Name Plate or Sign - One per dwelling unit not exceeding 1 square foot in area; unlighted signs not exceeding 12 square feet in area pertaining to sale or rental of property on which located.

B. "R2" District - Two Family Residence

(1) All Uses Permitted in the "R1" District, plus:

(2) Two Family Dwelling

(3) Day Nursery

(4) Limited Group Home, provided that not more than two group homes or halfway houses in any combination as outlined by definitions 26, 30, and 36 shall be located in any block group and that no more than one group home or halfway house be located on a block face without a prior approval of the Board of Zoning Appeals (see definitions for block groups and block faces). In no event shall any of the above uses be continuous. Certificate of Occupancy required in all cases.

(5) Extended Group Homes, if its location is first approved by the Board following a public hearing.

(6) Half-Way House, if its location is first approved by the Board following a public hearing.

(7) Accessory Building and Use.

C. "R3" District Multiple Family Residence

(1) All uses permitted in the "R2" District, plus:

(2) Multiple Family Residence

(3) Apartment Hotel

(4) Day Nursery, Tourist Home, Lodging Home

(5) Nursing Home or Rest Home

(6) Non-Profit Private Club

(7) Mortuary

(8) Extended Group Home, provided that not more than two group homes or halfway houses in any combination as outlined by definitions 26, 30 and 36 shall be located in any block group and that not more than one group home or halfway house be located on a block face without prior approval of the Board of Zoning Appeals (see definitions for block groups and block faces). In no event shall any of the above uses be contiguous. Certificate of Occupancy required in all cases.

(9) Half-Way House, provided that not more than two group homes or half-way houses in any combination as outlined by definitions 26, 30 and 36 shall be located in any block group and that not more than one group home or halfway house be located on a block face without prior approval of the Board of Zoning Appeals (see definitions for block groups and block faces). In no event shall any of the above uses be contiguous. Certificate of Occupancy required in all cases.

(10) Office or Studio - if its location is first approved by the Board following a public hearing.

(11) Accessory Building and Use

D. "RA" District and "RB" District - Residence (G-97-70, 8/25/70)

(1) Dwelling

(2) Public Park and Recreation Area

(3) Church, Public or Parochial Primary or Secondary School, including attached or free standing bulletin board not exceeding 24 square feet in area.

(4) Agriculture, Nursery or Truck Garden (Open or Under Glass)

(5) Home Occupation

(6) Tourist Home or Lodging Home, if its location is first approved by the Board of Zoning Appeals following a public hearing.

(7) Day Nursery, Nursing Home or Rest Home, if its location is first approved by the Board following a public hearing.

(8) Accessory Building and Use, including roadside stands for the retail sale of commodities produced on the premises only.

(9) Name plate or Sign, one per dwelling not exceeding 1 square foot in area; unlighted signs not exceeding 12 square feet in area pertaining to the sale or rental of property on which it is located.

(10) If the Commission shall find that substantial property rights in the area surrounding the tract may be directly affected by the development, a public hearing shall be held by the Commission before it approves a preliminary development plan; otherwise, a public hearing shall not be required. Notice of any such public hearing shall be the same notice as is required under the laws of the State of Indiana for the adoption of a Master Plan or amendments thereto under the Planning Acts of the State of Indiana.

(a) The development plan shall meet the location criteria:

(1) The location and size of the development would be compatible with the surrounding area and would not conflict with any components of the Master Plan of the City of Fort Wayne.

(2) The location of the development would provide direct access to a secondary or primary street or sufficient right-of-way and improvement width, or a residential street that meets the minimum requirements of both right-of-way and improvement of a secondary street unless waived by the Plan Commission.

(3) Written approval is received from the agency having jurisdiction that the development would not impose hardships on the following facilities:

- (a) Water
- (b) Sewer
- (c) Streets
- (d) Schools
- (e) Parks & Playgrounds
- (f) Fire Protection
- (g) Storm Water Drainage

(4) The Commission shall determine which street shall be dedicated and which passageways are to be private streets or parking lots.

(5) If the Commission is of the opinion that the location of the multiple family or multiple group development would conflict with the Master Plan for the City of Fort Wayne or would be detrimental to the growth of existing uses in the surrounding area, the Commission may disapprove said multiple development proposal, providing, however, such approval by the Commission will not be unreasonably withheld.

(b) The preliminary development plan shall meet the following standards and include the following information and supporting data:

(1) No less than 2,500 square feet of land is devoted to any efficiency, one or two bedroom living unit. In determining density no part of any existing street right-of-way or proposed right-of-way as shown in the Thoroughfare Plan shall be included.

(2) Living units having three (3) or more bedrooms shall have a minimum 4,000 square feet of land per unit. In determining density no part of any existing street right-of-way or proposed right-of-way as shown in the Thoroughfare Plan shall be included.

(3) The minimum off-street parking requirement shall be one and one-half ($1\frac{1}{2}$) spaces per unit and must be in an acceptable location to the building served. All parking spaces on public or private streets shall be parallel to the street.

- (4) All dedicated streets shall conform to the minimum requirements of the Subdivision Control Ordinance of the City of Fort Wayne and provide alignment with existing dedicated streets.
- (5) The maximum building coverage does not exceed thirty (30) percent of the tract, exclusive of streets.
- (6) Recreation or laundry facilities be located in a manner that would serve only the proposed multiple family complex. The use of these facilities by persons living outside this complex would be a violation of this ordinance.
- (7) In a multiple family or multiple group development, no building shall be closer than twenty-five (25) feet to an adjacent property line in the case of a one-story building nor closer than thirty (30) feet in the case of a two-story building. The Plan Commission may waive front, side or rear yard requirements if such waiver would compliment the plan.
- (8) Date, Scale 1" = 50', North Point, Name of Designer or Engineer and name and address of developer of tract.
- (9) Accurate boundaries of proposed development and accurate location of abutting streets and structures.
- (10) Location, size, use and capacity of all structures existing or to be placed on the tract.
- (11) Proposed point of ingress and egress for the planned development with proposed parking areas.
- (12) Existing and proposed rights-of-way of existing or proposed streets, road and highways.
- (13) Proposed site screening and landscaping of development. A minimum of forty (40) percent of all open space, exclusive of streets, shall be devoted to landscaping, unless waived by the Commission.
- (14) Proposals for sewers, water, gas, electricity and storm drainage and the necessary easements for these utilities.

(15) Proposals for control of storm water runoff.

(16) A fifty dollar (50) application fee must be paid to City Controller for the processing of this development plan.

(17) The Commission shall determine the location and type of all additional sidewalks.

(c) If the Commission approves the preliminary development plan, the final development plan shall be submitted to the Commission twenty-one (21) days prior to their next scheduled meeting and include the original tracing, five (5) prints and the following additional information and supporting data:

(1) Five (5) sets of improvement plans to be distributed to the Street Engineer, Water Engineer and Sewer Engineer and drawn in compliance with the Fort Wayne Board of Public Works Specifications.

(2) Existing contours at two (2) foot intervals with spot elevations of finished grade and directions of storm water runoff.

(3) To dedicate the streets and easements within this development plan, the following should be added:

- (a) Name of Plat
- (b) Street name assigned to streets to be dedicated and defining of streets or drives to remain private.
- (c) Certification by land surveyor registered by the State of Indiana.
- (d) Lot lines and dimensions.
- (e) Execution and notary by owners of land.
- (f) Instrument of approval for signatures of governing bodies.
- (g) Private restrictive covenants.
- (h) Statement dedicating streets and easements to the City of Fort Wayne.

E. "B1" District - Limited Business

The "B1" District classification is further divided into "B1A" District and "B1B" District as follows, both of which are included where reference is made to a "B1" District. All areas designated as "B1" Districts on the Zoning Map shall be subject to the provisions as to "B1B" Districts until the Zoning Map is amended to designate any area as "B1A".

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

"B1A" District

(1) All uses permitted in an "R3" District or which the Board of Zoning Appeals may permit as special uses in an "R3" District:

- (2) Agriculture
- (3) Public Parking Area
- (4) Taxi Station
- (5) Travel Bureau
- (6) Hat Cleaning and Repair Shop
- (7) Self-Service Laundry or Agency
- (8) Shoe Repair Shop or Shoe Shining
- (9) Tailor
- (10) Phonograph and Record Shop
- (11) Photographic Supply Shop or Studio
- (12) Bakery Goods Store
- (13) Confectionary, Ice Cream, or Candy Store
- (14) Delicatessen
- (15) Fruit or Vegetable Store
- (16) Grocery Store
- (17) Meat Market
- (18) Super Market
- (19) Tea Room
- (20) Beauty Parlor
- (21) Barber Shop
- (22) Cosmetics Store
- (23) Book Store
- (24) Cigar Store
- (25) Drug Store
- (26) Dry Goods Store
- (27) Gift Shop
- (28) Hardware Store
- (29) Garden Equipment Supply Store
- (30) Haberdashery

- (31) Hobby Shop
 - (32) Jewelry Store, including Clock or Watch Repair
 - (33) Leather Goods or Luggage Store
 - (34) Millinery Shop
 - (35) Notion Store
 - (36) Optician or Optometrist Office
 - (37) Paint Store
 - (38) Ready-To-Wear Shop
 - (39) Retail Florist, including Greenhouse of less than 1,000 square feet of ground floor area.
 - (40) Shoe Store
 - (41) Sporting Goods Store
 - (42) Stationery or News Dealer Store
 - (43) Toy Shop
 - (44) Variety Store
 - (45) Accessory Building and Use
- "B1B" District
- (1) All uses permitted in an "B1A" District, plus:
 - (2) Service Station
 - (3) Tire and Accessory Store
 - (4) Automobile Washing Station, with provision for off-street parking for sixty (60) or more vehicles.
 - (5) Letter press or Offset or Lithographic Printing Plant.
 - (6) Dressmaking Shop
 - (7) Clothes Cleaning Agency, Pressing Establishment
 - (8) Costume Rental
 - (9) Diaper Service Station
 - (10) Electrical Appliance or Radio Store
 - (11) Household Appliance Store
 - (12) Caterer
 - (13) Package Liquor Store
 - (14) Restaurant, including Tavern and Bar, but not including a drive-in restaurant.

- (15) Masseur Salon
- (16) Orthopedic or Medical Appliance Store
- (17) Public Bath
- (18) Reducing Salon
- (19) Bird Store or Pet Shop
- (20) Department Store
- (21) Furrier, including cold storage of garmets
- (22) Interior Decorating or Furniture Store
- (23) Music Conservatory School or Instrument Store
- (24) Bowling Alley
- (25) Billiard and Pool Hall
- (26) Indoor Theatre
- (27) Hotel, Motel, Private Club or Lodge
- (28) Advertising Sign or Billboard, provided that when the same is located within fifty (50) feet of an R District boundary line it shall be affixed to or be a part of a building and not extend over any street line nor project above the roof line.
- (29) Electrical Substations and Telephone Exchanges
- (30) Accessory Building and Use
- (31) Animal Hospital or Kennel catering to household pets, as distinguished from agricultural animals, provided all animal runs are located within an enclosed building, and provided further that all noises and odors be confined to the interior of the building or buildings, and provided further that same not be operated as to constitute a nuisance in the neighborhood.

F. "B2" - "B2A", Regional and Neighborhood Shopping Centers

(1) All "B1" uses specifically listed in Section 14E for "B2" Centers; all of said uses except "B1B" uses (4) (5) 24 25 and 26 for "B2A" Centers; provided, however, that no taverns, bars or agriculture shall be permitted in either a "B2" or a "B2A" Center; subject to compliance with the following requirements:

(a) The tract involved shall be of an area of not less than ten (10) acres for a "B2" center, and shall not be less than three (3) acres nor more than ten (10) acres for a "B2A" Center, and lie wholly or partially within 1,400 feet of a point represented by a "B2" or "B2A" symbol on the Zoning Map.

(b) The owner or owners of such tract of land shall have prepared a preliminary development plan for the entire such tract.

- (c) Such preliminary development plan shall have received the approval of the Commission.
- (2) Plan Commission Procedure:
- (a) An applicant for a Shopping Center Permit shall apply therefore to the Commission upon forms to be prescribed by the Commission. Such application shall be filed with the Land Use Administrator and transmitted by him to the Commission. Such application shall be accompanied by a preliminary development plan for the entire tract described in said petition, together with the supporting data therefor.
- (b) Upon receipt of such application and preliminary development plan, the Commission shall review the same and set the same for public hearing. Notice of the hearing shall be the same notice as is required under the laws of the State of Indiana for the adoption of a Master Plan or Amendments thereto under the planning acts of the State of Indiana.
- (c) The Commission shall consider such objections and shall review the proposed development plan and the supporting data from the basis of the requirements of this chapter. Thereafter, the Commission shall take action as follows:
- (1) If it shall find that such preliminary plans meet the requirements of this chapter, it shall approve the same and so notify the applicant. The applicant shall within 180 days submit to the Commission his final plan which shall be amended, approved or disapproved by the Commission within 60 days of its submission.
- (2) If it finds that upon said plan being amended, altered and changed as specified by the Commission, it will meet the requirements of this Chapter, it shall so notify the applicant, and thereupon the applicant shall prepare and file with the Commission another preliminary development plan and supporting data incorporating such specified changes. Upon the filing of the amended development plan, complying with the required amendments of the Commission shall approve the same and so notify the Zoning Enforcement Officer.

(3) If it shall find that such plan does not comply with the requirements of this Chapter, and is not susceptible of alteration, change or amendment to meet such requirements, the Commission will disapprove same.

(4) Within 180 days after approval of the preliminary plan, developer shall file final plan, which shall be approved by the Commission within 60 days after filing.

(5) If either a preliminary plan or final plan is not approved in 60 days after a written demand by developer to approve or disapprove same, it shall be deemed denied and an appeal lie by writ of certiorari.

(3) Development Plan Requirements:

In determining its approval or disapproval of a proposed development plan and supporting data, the Commission shall be governed by the following:

(a) The area to be occupied by the buildings in this district shall be twenty-five (25) percent or less of the net area of the land described in the petition. Also, ten (10) percent of the area dedicated to open space shall be set aside for planting of trees, ground cover, shrubs, and other landscaping material, which landscaping plan shall be explained in detail on said final plan.

(b) The location of the shopping center shall be on property which has an acceptable relationship to major thoroughfares. The plans for the proposed shopping center must possess a unified and organized arrangement of buildings and service facilities, which shall have a functional relationship to the property comprising the plan development and the uses of the property immediately adjacent to the proposed development. In exercising its jurisdiction, the Plan Commission shall have the authority to restrict the size, height, and relationship of one building to another within the center and architecture and actual design so long as these elements are directly related to the health, safety, welfare and morals of the community.

(c) (1) The preliminary plat shall indicate the legal description of land for which the permit is sought.

(2) The general location, general size and estimated classification of land use of buildings and structures.

(3) The general nature of the operations involved in and connected with such shopping center and general layout, including the location, approximate size, arrangement and capacity of all areas to be used for vehicular access, parking, loading, and unloading and the relationship to streets or an artery giving access to said center.

(4) Indication of the present and proposed sewers, water service and storm drainage.

(5) Area to be planted, shrubbed or otherwise landscaped.

(4) Issuance of Permit:

The Zoning Enforcement Officer shall issue an improvement location permit for a shopping center as herein defined only following receipt of notice from the Plan Commission that the final development plan has been approved by the Plan Commission.

(5) Construction of Improvement under permit:

Revocation of Permit:

Any person to whom is issued an Improvement Location Permit pursuant to Sub-section (4) above, who fails to commence construction of the shopping center within twenty-four (24) months after such permit is issued or who fails to carry to completion thirty (30) percent of the total buildings as authorized by said permit within three (3) years after said permit is issued, or within one (1) year after such construction is begun, whichever is later, shall be subject to the following penalties:

(a) If after public hearing the Commission finds that no substantial work has been commenced on said shopping center according to the development plan as finally approved by the Commission as called for in the Improvement Location Permit within three (3) years after said permit is granted, it shall be revoked by said Commission.

(b) If the plan is not completed as required by this Sub-section, failure to complete said plan shall be considered a breach of the zoning laws and subject to the penalty called for in Chapter 33, Section 26A.

(c) The Commission may, after investigation, seek to enjoin the operation of said shopping center if a substantial compliance with said plan has not been achieved in the time limit as herein set forth.

(6) Permits:

(a) Not more than one Improvement Location Permit for each shopping center district

may be issued and outstanding at any one time.

(b) Amendments to Development Plan:

- (1) The holder of a shopping center district Improvement Location Permit may apply to the Commission at any time for an alteration, change, amendment or extension of the development plan upon which such permit is based.
- (2) If an application shows that additional land is to be improved or used in connection with such shopping center permit, then the Commission shall proceed as in the case of original application for a shopping center Improvement Location Permit.
- (3) If no additional land is embraced in the application for alteration, change, amendment or extension, then the Commission shall be empowered to pass on such matters without requiring a public hearing thereon.
- (4) In the event the Commission shall approve and order such development plan changed, altered, amended or extended, it shall so notify the Zoning Enforcement Officer, and he shall issue an amended Improvement Location Permit accordingly.

G. "B3A" and "B3B" District - General Business

- Districts, plus:
- (1) All Uses Permitted in the "B1A" and "B1B"
 - (2) Automotive Service, including but not limited to the following:
 - (a) Automobile Repair or Body Shop
 - (b) Automobile Showroom
 - (c) Battery Repair Shop
 - (d) Bicycle Repair Shop
 - (e) Motorcycle Shop
 - (f) Public Garage
 - (g) Trailer or Mobile Home Sales Lot
 - (h) Used Car Sales Lot
 - (3) General Retail Service, including but not limited to the following:

- 1 (a) Antique Shop
- 2 (b) Art Store or Art Studio
- 3 (c) Boat Showroom
- 4 (d) Coin or Philatelic Store
- 5 (e) House Accessory Display or Sales Store
- 6 (f) Pawnshop
- 7 (g) Picture Framing Shop
- 8 (h) Retail Feed Store
- 9 (i) Second Hand Store or Rummage Shop
- 10 (j) Taxidermist
- 11 (4) Recreational Enterprise, including but not
12 limited to the following:
- 13 (a) Dance Hall or Studio
- 14 (b) Night Club
- 15 (c) Shooting Gallery
- 16 (d) Penny Arcade
- 17 (e) Skating Rink
- 18 (f) Boxing Club or Gymnasium
- 19 (5) Business or Trade School
- 20 (6) Motor Bus or Railroad Passenger Station
- 21 (7) Repair and Service Establishment, including but
22 not limited to the following:
- 23 (a) Cabinet or Carpenter Shop
- 24 (b) Exterminating Shop
- 25 (c) Glass Cutting or Glazing Shop
- 26 (d) Laundry or Cleaning Plant
- 27 (e) Plumbing, Heating, Air Conditioning or
28 Electrical Service Shop
- 29 (f) Sheet Metal Shop
- 30 (g) Sign Painting Shop
- 31 (h) Silver Plating or Repair Shop
- 32 (i) Upholstery Shop
- (j) Window Blind Sales or Repair Shop

- (k) Welding Shop
- (8) Rescue or Revival Mission
- (9) Accessory Building and Use
- H. "B4" District - Roadside Business
 - (1) All Uses Permitted in the "B3A" and "B3B" Districts, Plus:
 - (2) Drive-In Establishment, including but not limited to the following:
 - (a) Agricultural Implement Sales or Service Store
 - (b) Archery, Golf and Similar Range
 - (c) Auction Hall
 - (d) Drive-In Restaurant as defined as follows:
 - (1) Any eating establishment with more than twenty-five percent (25%) of the gross floor area devoted to kitchen and cold storage space, or
 - (2) Any eating establishment the plan for which evidences space provision or appurtenances necessary for food or drink consumption outside the restaurant building either on the premises or on public ways, or
 - (3) Any eating establishment where more than ten percent (10%) of the food and drink sold is actually carried out of the restaurant building, except food and drink packaged for home consumption.
 - (e) Drive-In Theatre
 - (f) Fruit and Vegetable Stand
 - (g) Ice Vending Station
 - (h) Pottery or Souvenir Shop
 - (i) Refreshment Stand
 - (3) Amusement Enterprise, including but not limited to the following:
 - (a) Children's Amusement Park
 - (b) Miniature Golf Course
 - (c) Miniature Railroad
 - (d) Pony Riding Ring

- 1 (e) Race Track
 2 (f) Riding Academy or Stable
 3 (g) Skating Rink
 4 following: (4) Other Services, including but not limited to the

- 5 (a) Animal Hospital or Kennel utilizing
 6 enclosed or outside animal runs.
 7 (b) Bottled Gas Service
 8 (c) Camp Ground
 9 (d) Wholesale Florist, Greenhouse
 10 (e) Light Equipment Rental Service
 11 (f) Live Bait Stand

- 12 (5) Accessory Building and Use

13 I. "M1" District - Light Industrial

- 14 (1) All Uses Permitted in the "B4" District, Plus:
 15 to the following: (2) Other Commercial Uses, including but not limited

- 16 (a) Bottling Works
 17 (b) Building Material Sales Yard (excluding
 18 concrete mixing)
 19 (c) Chick Hatchery
 20 (d) Road or Building Contractor's Equipment
 21 Storage Yard
 22 (e) Sales and Rental of Road or Building
 23 Contractor's Equipment
 24 Station (f) Public Utility Service Yard
 25 (g) Electrical Receiving or Transforming
 26 (h) Draying, Freightage or Trucking Yard or
 27 Terminal
 28 (i) Feed or Grain Storage
 29 (j) Fuel Yard; including bulk storage of
 30 petroleum products for local distribution,
 31 as distinguished from a petroleum products
 32 terminal for extensive storage and
 regional distribution purposes.
 (k) Ice Manufacture or Cold Storage

- (l) Experimental or Testing Laboratory
- (m) Printing Plant, including letterpress or offset or lithographic
- (n) Poultry Dressing
- (o) Warehousing, Wholesale Merchandise
- (p) Storage (excluding auto wrecking, junk or scrap materials)
- (q) Wholesale Food Market

(3) Any Use Permitted in an "M2" District, provided that such use including all accessory and incidental uses, does not occupy an area in excess of 15,000 square feet, and provided further, that all smoke, dust, dirt, toxic gases and fumes or noxious odor produced upon the premises, is confined thereto.

(4) Accessory Building and Use

J. "M2" District - General Industrial

(1) All Uses Permitted in an "M1" District, provided that no building used for dwelling purposes shall be permitted except within two hundred (200) feet of an abutting "R" District.

(2) Fabricating, Manufacturing and Processing Industries, provided the same conform to the following requirements:

- (a) (Enclosed Buildings) All operations are conducted and all materials and products are stored within enclosed buildings.
- (b) (Minimum Distance) The minimum distance between any boundary line of an "R" District, and,
 - (1) A building or structure is fifty (50) feet;
 - (2) A parking area used by passenger vehicles is fifteen (15) feet;
 - (3) A driveway, parking area or loading dock used by trucks, tractors, semi-trailers or trailers is one hundred and fifty (150) feet;
 - (4) A railroad switching track or spur track is three hundred (300) feet;
- (c) (Smoke) No smoke is emitted of a density greater than No. 1 according to the Ringlemann's Scale, except that smoke of a density not in excess of No. 2 of the Ringlemann's Scale shall be permitted for a period not in excess of six (6) minutes in any hour.
- (d) (Fly Ash) No particles from any flue or smokestack exceeds 0.2 grains per cubic foot of flue gas at a stack temperature of 500° Fahrenheit.

(e) (Dust) All walks, driveways and parking areas are dustproofed.

(f) (Dust) No dust of any kind produced by the industrial operations is permitted to escape beyond the confines of the building in which it is produced

(g) (Odor) No noxious odor of any kind is permitted to extend beyond the lot lines. Tanneries, abattoirs, glue factories, oil refineries, soap factories, artificial gas manufacture, rubber manufacture, fertilizer manufacture and similar industries shall present detailed plans for elimination of noxious odors before a permit will be granted.

(h) (Gases and Fumes) No gases or fumes toxic to persons or injurious to property are permitted to escape beyond the building in which it occurs.

(i) (Glare) No glare may be seen from any street or any "R" or "B" District.

(3) Accessory Building and Use

K. "M3" District - Heavy Industrial

(1) All Uses Permitted in an "M2" District, except that a building or use providing dwelling units shall not be permitted.

(2) Fabricating, Manufacturing, Processing, Extraction, Heavy Repair and Dismantling Industries, including open land operations provided the same conform to the following requirements:

(a) (Smoke) No smoke is emitted of a density greater than No. 2 according to the Ringlemann's Scale, except that smoke of a greater density shall be permitted for a period not in excess of six (6) minutes in any one hour.

(b) (Fly Ash) No particles from any flue or smokestack exceeds 0.3 grains per cubic foot of flue gas at a stack temperature of 500° Fahrenheit.

(c) (Gases or Fumes) No gases or fumes toxic to persons or injurious to property are permitted to escape beyond the confines of the building in which it occurs.

(3) Ready-Mix Concrete Plant or Asphalt Plant

(4) Accessory Building and Use

L. "IA" District - Interchange Access District

(1) An Interchange Access District is not a predetermined area with fixed boundaries within which certain uses are permitted and all other uses prohibited. It is a center which may be established upon application in each case within any district. Until it is so estab-

4742
blished, no use permitted in any district is prohibited. It may be so established only with reference to the location of an "IA" District Symbol previously established by amendment of the Zoning Maps referred to in Section 9 of this Chapter, but the establishment of such symbol does not establish an Interchange Access District or in any way affect existing zoning districts.

(2) The following are uses which may be permitted in the "IA" District; when such a District has been established in each case as herein provided:

- (a) Tourist Home; Lodging Home
- (b) Public Park and Public Information Center
- (c) Public Parking Area
- (d) Service Station and Accessory Store; Car Wash; Light Automobile Repair, as permitted under Subsection E(3) (uii).
- (e) Delicatessen
- (f) Restaurant, exclusive of curb service and consumption on exterior premises.
- (g) Public Bath
- (h) Drug Store
- (i) Hotel or Motel as regulated by Section 14

All subject to compliance with the following requirements:

- (1) The tract involved shall be of an area of not less than three (3) acres nor more than ten (10) acres and lie wholly or partially within three-quarters (3/4) of a mile of a point represented by an "IA" District Symbol shown on the Zoning Map.
- (2) The owner or owners of such tract of land shall have submitted a preliminary development plan for the entire such tract.
- (3) Such preliminary development plan shall have received the approval of the City Plan Commission.

(3) Plan Commission Procedure:

- (a) An applicant for an interchange access district permit shall apply therefore to the Commission upon forms to be prescribed by the Commission. Such application shall be filed with the Plan Commission. Such application shall be accompanied by a preliminary development plan for the entire tract, described in said petition, together with supporting data therefore.

(b) Upon receipt of such application and preliminary development plan, the Commission shall review the same and set the same for public hearing. Notice of the hearing shall be the same notice as is required under the laws of the State of Indiana for the adoption of a Master Plan or amendments thereto under the Planning Acts of the State of Indiana.

(c) The Commission shall consider such objections and shall review the proposed development plan and supporting data on the basis of the requirements of this Chapter. Thereafter, the Commission shall take action as follows:

(1) If it shall find that such preliminary plan meets the requirements of this Chapter, it shall approve the same and so notify the applicant. The applicant shall, within one hundred eighty (180) days, submit to the Commission his final plan which shall be amended, approved, or disapproved by the Commission within sixty (60) days of its submission.

(2) If it finds that upon said plan being amended, altered, or changed as specified by the Commission, it will meet the requirements of this Chapter, it shall so notify the applicant and thereupon the applicant shall prepare and file with the Commission another preliminary plan and its supporting data incorporating such specified changes. Upon the filing of the amended development plan complying with the required amendments of the Commission, the Commission shall approve the same and so notify the Zoning Enforcement Officer.

(3) If it shall find that such plan does not comply with the requirements of this Chapter and is not susceptible of alteration, change, or amendment to meet such requirements, the Commission shall disapprove same.

(4) Within one hundred eighty (180) days after approval of the preliminary plan, the developer shall file a final plan which shall be reviewed by the Plan Commission within sixty (60) days after filing.

(5) If either a preliminary or final is not approved in sixty (60) days after the written demand by developer to approve or disapprove same, it shall be deemed denied and an appeal lie by writ of certiorari.

(4) Development Plan Requirements:

In determining its approval or disapproval of a proposed development plan and supporting data, the Commission shall be governed by the following:

- (a) The area to be occupied by the buildings in this district shall be twenty-five percent (25%) or less of the net area of land described in the petition. Also, a minimum of ten percent (10%) of the area dedicated to open space, exclusive of parking, shall be set aside for planting of trees, ground cover, shrubs, and other landscaping material, which landscaping plan shall be explained in detail on said final plan. Also, the landscaping shall be completed in proportion to the square footage of buildings under roof as related to the total project area.
- (b) The location of the Interchange Access District shall be on property which has an acceptable relationship to major streets, highway,s and thoroughfares which will serve the area. The plans for the proposed Interchange Access District must possess a unified and organized arrangement of buildings and service facilities which shall have a functional relationship to the property comprising the planned development and the uses of the property adjacent to the proposed development. In exercising its jurisdiction, the Plan Commission shall have the authority to restrict the size, height, and relationship of one building to another within the area involved, and architecture and actual design so long as these elements are directly related to the health, safety, convenience, welfare and morals of the community.
- (c)
 - (1) The preliminary plan shall indicate the legal description of the land for which the permit is sought.
 - (2) The general location, general size and classification of land use of buildings and structures.
 - (3) The general nature of the operations involved in and connected with such Interchange Access District and general layout, including the location, approximate size, arrangement and capacity of all areas to be used for vehicular access, parking, loading and unloading, and the relationship to streets or an artery giving access to said district.
 - (4) Indication of the present and proposed sewers, water service, storm drainage.

(5) Area to be planted, shrubbed or otherwise landscaped.

(d) In reviewing said plan for an Interchange Access District, the Plan Commission shall have the right to require such design standards as service roads, setbacks, dedication of public right-of-way for street and highway purposes, and other design factors related to vehicular access so long as said conditions are directly related to the health, safety, convenience, welfare and morals of the general public.

(e) The Plan Commission shall have the authority to permit an Interchange Access District for areas less than three (3) acres providing the developer can show that due to natural physical characteristics or barriers, it is impossible to assemble more than the three (3) acres as required by previous section of this ordinance.

(5) Issuance of Permits:

The Zoning Enforcement Officer shall issue an improvement location permit for a use contained within an interchange district as herein defined only following receipt of notice from the Plan Commission that the final development plan has been approved by the Commission. No certificate of occupancy permit shall be issued by the Zoning Enforcement Officer until all buildings, landscaping, parking lots, driveways, sidewalks, etc., are installed in accordance with the approved plan.

(6) Construction of Improvement Under Permit:

Revocation of Permit:

Any person to whom is issued an Improvement Location Permit pursuant to Paragraph (3), Subsection "L," Section 14, who fails to commence construction of the Interchange Access District development within twenty-four (24) months after such permit is issued, or who fails to carry to completion thirty (30) percent of the total buildings and landscaping as authorized by said permit within three (3) years after said permit is issued, or within one (1) year after such construction is begun, whichever is later, shall be subject to the following penalties:

(a) If after public hearing and proper notice thereof the Commission finds that no substantial work has been commenced on said Interchange Access District according to the development plan as finally approved by the Commission as called for in the Improvement Location Permit within three (3) years after said permit is granted, it shall be revoked by said Commission.

(b) If the plan is not completed as required by this Subsection failure to complete said plan shall be considered a breach of the zoning laws and subject to the penalty called for in Section 25A of this Chapter.

(c) The Zoning Enforcement Officer may, after investigation, seek to enjoin the operation of said Interchange Access District if a substantial compliance with said plan has not been achieved in the time limit as herein set forth.

(7) Permits:

(a) Not more than one Improvement Location Permit for each Interchange Access District may be issued and outstanding at any one time.

(b) Amendments to Development Plan:

(1) The holder of an Interchange Access District Improvement Location Permit may apply to the Commission at any time for an alteration, change, amendment or extension of the development plan upon which such permit is based.

(2) If an application shows that additional land is to be improved or used in connection with such Interchange Access District Permit then the Commission shall proceed as in the case of original application for an Interchange Access District Improvement Location Permit.

(3) If no additional land is embraced in the application for alteration, change, amendment or extension, then the Commission shall be empowered to pass on such matters without requiring a public hearing thereon.

(4) In the event the Commission shall approve and order such development plan changed, altered, amended or extended, it shall so notify the Zoning Enforcement Officer and he shall issue an amended Improvement Location Permit accordingly.

M. "MHP" District - Mobile Home Park District

(1) Mobile Home Park Districts may be established by the Common Council on the initiative of the Plan Commission in accordance with a comprehensive plan for the entire area within its jurisdiction, after public hearing, within or including any other zoning district under this Chapter. Such Mobile Home Park Districts shall remain subject to the restrictions of such other districts except as to any part actually occupied by a Mobile Home Park after application and approval as herein provided. Until such districts have been so established initially on the initiative of the Plan Commission, no petitions for such zoning or applications for approval of Mobile Home Parks shall be received.

(2) The additional permitted use in a Mobile Home Park District is Mobile Home Parks as defined in Section 3, and subject to the procedure and approval as herein provided.

1 (3) After Mobile Home Park Districts have been estab-
2 blished, applications for approval of development plans for a Mobile Home
3 Park may be filed with the Plan Commission, and its procedure thereon shall
4 be as provided for Interchange Access Districts under Section 14L (3) of
5 this Chapter as added by General Ordinance No. G-21-65.

6 (4) Development Plan Requirements:

7 In determining its approval or disapproval of a
8 proposed development plan and supporting data, the Commission shall be
9 governed by the following:

10 (a) The minimum area shall be eight (8) acres.

11 (b) The owner-developer shall submit a
12 development plan showing the name of the
13 mobile home park; its location by town-
14 ship, section, or other legal description,
15 the name and address of the developer;
16 scale; date; north arrow; location, widths
17 and names of all existing streets or
18 public ways, railroads rights-of-way,
19 utility easements, parks and other public
20 open spaces, existing buildings, and
21 structures within and adjacent to the
22 tract; adjoining boundary lines of all
23 adjacent land uses describing the land use
24 or some other means of identification; the
25 layout of proposed streets, driveways,
26 alleys, and crosswalks within the proposed
27 mobile home park; the layout of the pro-
28 posed lots, their numbers and dimensions;
29 the location of parcels of land intended
30 for public use; the mobile home limit
31 lines within each of the lots; contours,
32 both existing and proposed, at intervals
of not more than five (5) feet; location
and type of all utility easements on the
site or immediately adjacent to it; such
other data as the Commission may by rule
require.

(c) All lots within the park shall be a mini-
mum of forty (40) feet wide measured along
a perpendicular to the side lot line, in
the case of an irregular shaped lot the
average lot width shall be at least forty
(40) feet; minimum lot area shall be 3,000
square feet exclusive of the roadway
drives and other open public spaces, but
may include offstreet parking spaces;
minimum side yard of six (6) feet and
minimum rear yard of eight (8) feet; in no
case shall a mobile home be located nearer
than fifteen (15) feet from the nearest
boundary line of the mobile home park; in
no instance shall a mobile home be located
nearer than six (6) feet from the edge of
the street improvements.

(d) Minimum street or driveway improvements
within the mobile home park where off-
street parking is provided - 30 feet;
where no off-street parking is provided -
36 feet.

- (e) Streets shall be surfaced and improved to the standards and specifications of the Fort Wayne Board of Public Works.
- (f) At the time of application, a typical cross-section of any and all streets in the area must be submitted to the Board of Public Works for their approval.
- (g) Parking - Parking spaces shall be provided at the rate of two (2) parking spaces per lot.
- (h) Sidewalks, thirty (30) inches in minimum width, shall be provided and shall be so designed to meet the standards of the Fort Wayne Board of Public Works.
- (i) Street lighting shall be provided in accordance with the standards of the Fort Wayne Board of Public Works and the light value on all occupied streets shall be a minimum of 1/10th foot candle.
- (j) Screening - Screening of a type and design at the discretion of the Plan Commission shall be provided where any mobile home court is bounded by a public street, highway, or developed residential area.
- (k) Recreation area sufficient in size and activity shall be provided in each mobile home court. The size of the activity shall be at the discretion of the Plan Commission at the time of approval.
- (l) All sewer and water service shall be installed by the developer and shall conform to the minimum standards of the Fort Wayne Board of Public Works and the Health Department having jurisdiction.
- (m) The developer shall provide the Plan Commission with a statement from the school authorities having jurisdiction in the location of the proposed Mobile Home Park that the increased school enrollment, as a result of this mobile home park, will not cause undue hardship on the school required to serve the area involved.
- (n) All driveways, access roads, streets and lanes within the mobile home park shall be identified by some means so as to avoid confusion on the part of police and emergency equipment when called to a particular location within the mobile home park.
- (o) In the event the developer proposes to establish driveways or streets within the mobile home park as a public street, the design shall meet the minimum standards as prescribed by the Subdivision Control Ordinance of the City of Fort Wayne.

(p) At the time of approval, the developer shall show evidence that all common areas, open spaces, driveways, sidewalks, recreational facilities, and spaces other than the actual trailer lots shall be maintained. This evidence can be in the form of assessment against the lots, a restrictive covenant enforceable by the city or other suitable means of assurance that all public properties will be maintained with the mobile home park.

(q) The developer shall provide a storage building on each trailer lot consisting of at least 50 square feet of enclosed floor space.

(5) As to Issuance of Permits, Construction of Improvements under Permits, Revocation of Permits and Amendments to Development Plan, the provisions for Interchange Access Districts under Section 14L (5), (6) and (7) of this Chapter as added by General Ordinance No. G-21-65 shall be applicable.

N. Planned Unit Development. (G-100-70, 10/27/70)

(1) Intent. Ingenuity, imagination and design efforts on the part of builders, architects, site planners and developers can produce Planned Unit Developments which are in keeping with overall land use intensity and open space objective of the Master Plan while departing from the strict application of use, setback, height and minimum lot size requirements of several zones. The intent of this section is to permit such flexibility and provide performance criteria for Planned Unit Development which; permit a creative approach to the development of residential land; accomplish a more desirable environment than would be possible through the strict application of minimum requirements of the zoning code and subdivision code; provide for an efficient use of land, resulting in smaller networks of utilities and streets and thereby lower housing costs; enhance the appearance of neighborhoods through preservation of natural features, the provision of underground utilities where feasible and the provision of recreation areas and open space in excess of existing zoning and subdivision requirements; provide an opportunity for new approaches to living environment; and provide an environment of stable character compatible with surrounding residential areas.

(2) Voluntary alternate procedure: The use of the Planned Unit Development procedures contained herein is not mandatory for the development of any parcel of ground. The intent and purpose of this process is to provide a voluntary alternate procedure which maximizes the utilization of land primarily for the benefit, use, and enjoyment of the future residents of that area and the existing residents of the City of Fort Wayne and its environs. In a Planned Unit Development open space and common recreational areas and facilities are the environment and livability benefits furnished to the resident and community in lieu of large individual lots.

(3) Permitted Use. Pursuant to Planning Act of 1947, Chapter 174, and subject to the regulations, standards, and conditions set forth herein, Planned Unit Developments shall be permitted in Fort Wayne's planning jurisdiction upon obtaining final development plan approval from the Plan Commission. A special exception certification for a Planned Unit Development or part thereof may be issued only after (1) final subdivision approval thereof by the Plan Commission, and (2) filing the approved plan in the Office of the Recorder of Allen County.

(4) Location. Planned Unit Developments are permitted only in R1, R2, R3, RA, RB, B1A, B1B, B4 and M1 Zoning Districts.

(5) Principles of Planned Unit Development. The Planned Unit Development is a permitted use designed to provide for developments incorporating a single type or a variety of residential and related uses which are planned and developed as a unit. Such development may consist of individual lots or common building sites. Common land must be an essential and important element of the plan related to effecting the long-term value of the entire development.

(6) Standards and criteria. Subject to the provision set forth herein, Planned Unit Developments are permitted uses on sites consisting of no less than ten (10) contiguous acres unless the Commission and Council permits a lesser acreage because of unusual circumstances.

(7) Uses and Requirements.

(a) Residential Uses. Permitted land use requirements of the zone within which a Planned Unit Development is located shall apply, with the following exceptions:

- (1) Open space reservations may be considered for population density and building intensity increases;
- (2) Permitted types of dwelling units may include single family detached homes, town houses, garden apartments or high-rise apartments;
- (3) Condominium, cooperative individual, municipal or any other type of ownership hereby is permitted.

(b) Non-residential uses. Non-residential uses, limited to those specifically approved by the Plan Commission are permitted in a Planned Unit Development provided that such uses primarily are for the service and convenience of the residents of the development and further provide that:

- (1) No store shall exceed 10,000 square feet of gross floor area; and,
- (2) The total mercantile and office space permitted within a Planned Unit Development shall not exceed forty (40) square feet of gross floor area under roof per dwelling unit in the development, excluding in such computation, buildings used for non-profit educational, recreational or cultural purposes. However, the Commission may exclude mercantile and office space if adequate facilities are proposed or are existing in the area.

1 (c) Minimum Requirements.

2 (1) Yard, setback, lot size, type of
3 dwelling unit, height, frontage
4 requirements, and use restrictions
5 may be waived for the Planned Unit
6 Development, provided that the
7 spirit and intent of this section
8 are complied with in the total
9 development plan, as determined by
10 the Plan Commission. The Plan
11 Commission may determine that cer-
12 tain setbacks be required within all
13 or a portion of the perimeter of the
14 site and shall exercise ultimate
15 discretion as to whether the total
16 development plan does comply with
17 the spirit and intent of this sec-
18 tion.

19 (2) Every dwelling unit shall have
20 access to a public street, walkway
21 or other area dedicated to common
22 use.

23 (3) The approximate location of struc-
24 tures, shown on the conceptual
25 development plan, shall be so
26 arranged as not to be detrimental to
27 existing or other proposed struc-
28 tures or to the development of the
29 neighborhood.

30 (d) Privacy. Each development shall provide
31 reasonable visual and acoustical privacy
32 for dwelling units. Fences, insulation,
33 walks, barriers, and landscaping shall be
34 used, as appropriate, for the protection
35 and aesthetic enhancement of property and
36 the privacy of its occupants, screening of
37 objectionable views, or uses and reduction
38 of noise. Highrise buildings, if permit-
39 ted, shall be located within a Planned
40 Unit Development in such a way as to
41 dissipate any adverse impact on adjoining
42 low-rise buildings and shall not invade
43 the privacy of the occupants of such
44 low-rise buildings.

45 (e) Off-Street Parking. Parking convenient to
46 all dwelling units and other uses, shall
47 be provided pursuant to the minimum
48 requirements of the Rating Chart I of this
49 ordinance. Where appropriate, common
50 driveways, parking areas, walks and steps
51 shall be provided, maintained and lighted
52 for night use. Screening of parking and
53 service areas may be required through
54 ample use of trees, shrubs, hedges and
55 screening walls.

56 (f) Perimeter Requirements. If topographical
57 or other barriers within two hundred (200)
58 feet of the perimeter of the development

do not provide reasonable privacy for existing uses adjacent to the development, the Plan Commission shall impose either of the following requirements, or both:

(1) Structures located on the perimeter of the development must be set back in accordance with the provisions of the zoning ordinance controlling the area within which the development is situated; and,

(2) Structures located on the perimeter of the development must be well screened in a manner which is approved by the Commission.

(g) Interior Streets. The minimum roadway width of two-way streets shall be twenty-seven (27) feet. Such streets shall be paved according to city specifications for residential streets and maintained in good condition and lighted at night. The Plan Commission shall determine streets that must be dedicated so that proper vehicular traffic circulation is achieved between developments. No angle parking shall be permitted on any street.

(h) Sidewalks. Sidewalks shall be provided as deemed necessary by the Plan Commission.

(i) Swimming Pools. All swimming pools within a Planned Unit Development shall comply with the provisions of Chapter 37 of the Municipal Code.

(8) Density. Density (Dwelling units per acre) may be increased if the character of the development and/or amenities incorporated in the development warrant such increases provided that in no case shall the density increase cause the density of the Planned Unit Development to be more than thirty-three percent (33%) in excess of the density which would be achieved under standard zoning regulations.

The Plan Commission shall determine the density which may be permitted within the Planned Unit Development by using the land use intensity Rating Chart I as a guide and modified by any increases in density permitted under Paragraph 8 B of this ordinance. Any additional density allowed shall be at the discretion of the Commission.

(a) Planned Unit Development in more than one zone. If the Planned Unit Development is in more than one zone, the number of allowable dwelling units must be separately calculated for each portion of the planned development that is in a separate zone, and must then be combined to determine the number of dwelling units allowable in the entire Planned Unit Development.

(b) Density increases. Density increase shall be governed by the precepts listed below, which are to be treated as additive, and not compounded:

- (1) Open space reservation shall be considered for density increases according to the following provision:

For improved and unimproved common open space

- (A) The first acre of common open space per 20 acres gross, if improved, permits a maximum increase of eight (8) percent; if first acre of common open space is unimproved, six (6) percent is allowed.
- (B) The second acre of common open space per 20 acres of gross, if improved, permits a maximum increase of four (4) percent; if unimproved, three (3) percent is allowed.
- (C) Each additional acre of common open space per 20 acres of gross, if improved, permits a maximum increase of three (3) percent; if unimproved, two (2) percent is allowed.
- (2) Character, identify and architectural and siting variation incorporated in a development shall be considered cause for density increases not to exceed fifteen (15) percent, provided these factors make a substantial contribution to the objectives of a Planned Unit Development. The degree of distinctiveness and the desirable variation achieved shall govern the amount of density increase which the Plan Commission may approve. Such variations may include, but are not limited to the following:
- (A) Landscaping (a maximum increase of five (5) percent); streetscaping; open spaces and plazas; use of existing landscape; pedestrian way treatment; and recreational areas.
- (B) Siting (a maximum increase of five (5) percent); visual focal points; use of existing physical features such as topography; view; sun and wind orientation; circulation pattern, physical environment; variation in building setbacks; and building groups (such as clustering).

(C) Design features (a maximum increase of five (5) percent); street sections; architectural styles; harmonious use of materials; parking areas broken by landscape features; and varied use of house types.

(c) When density increase is not permitted.
If the Plan Commission finds that any of the following conditions would be created by an increase in density permitted in subsection paragraph 8B, it may either deny any application for increase in density, or, limit the increase in density by an amount sufficient to avoid the creation of any of the following conditions:

- (1) Inconvenient or unsafe access of the development.
- (2) Traffic congestion in streets adjoining the development.
- (3) An excessive burden imposed on parks, recreational areas, schools, and other public facilities which serve or are proposed to serve the development.

(d) Notification of density increase. The developer will be informed at the time of the approval of the Planned Unit Development, if the Commission should grant additional density.

(9) Open Spaces. "Common Open Space" is defined as a parcel or parcels of land or an area of water, or a combination of land and water, designed and intended for the use and enjoyment of residents of the Planned Unit Development, or of the general public. Improved common open spaces may contain accessory structures and improvements necessary or desirable for religious, educational, non-commercial; recreational areas are encouraged, such as children's informal play in close proximity to individual dwelling units, the concentration of dwelling; formal parks, picnic areas, playgrounds; and scenic open areas and communal non-commercial recreational facilities. The Plan Commission shall have sole discretion as in determining if open space is improved or unimproved space based upon plans submitted by developer.

(a) Conveyance and maintenance of common open space. All common open space, shown on the final development plan and recorded in the office of the Recorder of Allen County must be conveyed in accordance with one of the following methods:

- (1) By dedication to the city department responsible for maintenance of the parcel as municipally owned and maintained common open space, provided the parcel is acceptable to that city department; or

- (2) By leasing or conveying title (including beneficial ownership) to a corporation, association or other legal entity. The terms of such lease or other instrument of conveyance must include provision, suitable to the Plan Commission for guaranteeing: (A) the continued use of such land for the intended purpose; (B) continuity or proper maintenance for those portions of the open space land requiring maintenance; (C) when appropriate, the availability of funds required for such maintenance; (D) adequate insurance protection; and (E) recovery for loss sustained by casualty, condemnation or otherwise.

In any event, the developer must file in the office of the City Plan Commission, at the time the approved final subdivision plat is filed, legal documents which will produce the aforesaid guarantees and, in particular, will provide a method for restricting the use of common open spaces for the designated purposes.

- (b) Utility and continuity for common use. All common open space proposed for dedication to the City of Fort Wayne must be acceptable to it with regard to the size, shape, location and improvement. In addition, the applicant must show that the dedication of such areas as common open space will be of benefit to the general public of Fort Wayne and its environs.

(10) Improvements.

- (a) Circulation facilities. The arrangement of public and common ways for pedestrian and vehicular circulation in relation to other existing or planned streets in the area and to the Master Plan, together with provisions for street improvements, shall be in compliance with standards set forth in subsection paragraph 7 E and paragraph 7 G above and in the Subdivision Control Ordinance. Upon application by developer and good cause shown, the Plan Commission may permit changes or alterations of such standards which are consistent with the spirit and intent of this section.

- (b) Utilities. Whenever reasonably possible, all Planned Unit Developments shall provide for underground installation of utilities (including electricity and telephone) in both public ways and private extensions thereof. Provisions shall be made for acceptable design and construc-

tion of storm sewer facilities including grading, gutters, piping and treatment of turf to handle storm waters, prevent erosion and the formation of dust. Utilities and maintenance of facilities shall be in accordance with the requirements and regulations of the Fort Wayne Board of Public Works. A Planned Unit Development application shall not be approved unless adequate assurance is given that public or quasi-public water and sanitary sewer service will be available, except that upon application by the developer and good cause shown. The Plan Commission may modify or waive this requirement provided such action is consistent with the spirit and intent of this section.

- (c) Pedestrian circulation. The pedestrian circulation system and its related walkways shall be insulated completely and as reasonably as possible from the vehicular street system in order to provide separation of pedestrian and vehicular movement. This shall include, when deemed to be necessary by the Plan Commission, pedestrian underpass or overpass in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses which generate a considerable amount of pedestrian traffic.

(11) Subdivision review. It is the intent of this ordinance that subdivision review under the Subdivision Control Ordinance be carried out as an integral part of the review of a Planned Unit Development under this section. The plans required under subsection 17 of this ordinance must be submitted in a form which substantially will satisfy requirements of the Subdivision Control Ordinance for the preliminary and final plan approvals. However, if any provisions of this ordinance and the Subdivision Control Ordinance are in conflict, the more restrictive or detailed requirements shall be met, unless specifically waived or altered by the Plan Commission.

It is the intent of this section to permit the submission of final subdivision applications for the whole, a part, or parts of the overall Planned Unit Development.

(12) Procedure. A generalized summary of the steps for consideration and approval of Planned Unit Development and subdivision plans relating thereto is as follows:

- (a) Pre-application conference or conferences are held with the Director of Planning in order to obtain information and guidance in preparing the Planned Unit Development application.
- (b) The Planned Unit Development application (conceptual and schematic) with plans and statements is submitted to the Plan Commission and a public hearing is held.

- (c) If the Planned Unit Development plan is approved, the applicant is authorized to proceed with the preparation of the preliminary subdivision application. If the plan is disapproved then the Commission shall state the reasons for the rejection of the plan.
- (d) The preliminary subdivision application is filed with the Plan Commission for Commission action.
- (e) If the preliminary plan is approved, the final subdivision plan is filed with the Plan Commission. The Commission shall approve, modify and approve, or disapprove the application within sixty (60) days after a complete application is filed.
- (f) The applicant is notified of Plan Commission action. Approved subdivision plans shall be recorded as required herein and by the Fort Wayne Subdivision Control Ordinance.
- (g) The applicant shall commence construction on the approved subdivision within six (6) months, and begin construction in one (1) year on the approved Planned Unit Development following recordation of approved plans. Upon failure to do so, the Planned Unit Development and approvals are voidable. Work shall not commence on approved commercial or industrial sites until 50% of the Unit Development is completed and occupied.

(13) Applicant. Planned Unit Development applications shall be filed in the name or names of the recorded owner or owners of property included in the development, as shown in the Allen County records. However, the applications may be filed by holder(s) of an equitable interest in such property. If recorded title is changed for all or any portions of such property prior to issuing final P.U.D. approval, the records of the Plan Commission and related documents shall be amended to reflect such changes before maps and documents are recorded by the Allen County Recorder, as provided herein.

(14) Pre-application conference. To obtain information, each applicant shall confer with the Director of Planning and interested department heads in connection with the preparation of the Planned Unit Development application. The general outlines of the proposal, evidenced schematically by sketch plans, are to be considered before submission of the Planned Unit Development application. Thereafter the Director of Planning shall furnish the applicant with his written comments regarding such conference, including appropriate recommendations to inform and assist the applicant prior to his preparing the components of the Planned Unit Development application. It is not required that any person requesting a pre-application conference be an owner or holder of an equitable interest in the subject property.

(15) Planned Residential Unit Application.

- (a) All Planned Unit Development plans shall be submitted to the Plan Commission with

an application in the form to be prescribed by it. The Plan Commission shall charge for the processing of the application of the proposed improvements, a fee of One Hundred Dollars (\$100) for each application. This fee shall be in addition to the fee prescribed in the subdivision code.

(b) Within forty (40) days after a complete Planned Unit Development application has been filed with the Plan Commission, the Commission shall hold a public hearing, which shall be construed as satisfying any requirement for a subdivision hearing.

(c) The Plan Commission shall approve, modify and approve, or disapprove any such application within forty (40) days after the public hearing. The Planned Unit Development application shall include the following:

(1) A declaration by the developer in which there is furnished:

(A) An evaluation of the proposed Plan Unit Development, together with the factors considered in the evaluation;

(B) A general statement regarding the nature and location of common open space and the means by which the developer will guarantee its continuity and maintenance;

(C) The general location and purpose of all nonresidential structures;

(D) A general statement indicating the proposed types and location of dwelling units, the anticipated population density associated with each type; and

(E) The method by which utilities will be provided.

(2) Conceptual and schematic plans incorporating the following elements:

(A) Those listed in subsection 8 hereof:

(B) Conceptual plans of the entire site showing:

(1) Existing contours accompanied by outline of grading plans.

- (2) Typical cross-sections.
 - (3) Drainage control.
 - (4) Conceptual location of all main and accessory structures accompanied by an outline explaining intended heights, coverage and treatment of yards.
 - (5) General outline of motor vehicle parking and loading provisions.
 - (6) General traffic circulation features, public and private streets, width of right-of-way and roadway, location of vehicular access points thereto.
 - (7) Pedestrian circulation features, walks and paved areas.
 - (8) Landscaping and forestry features.
 - (9) General nature and location of public and private utilities and community facilities and services, including maintenance facilities.
 - (10) Recreational and other non-building areas designated.
- (d) Common Open Space Information, including:
- (1) Percentage of acreage of common open space in each part of the development.
 - (2) General nature of common open space use.
 - (3) Topographical factors affecting common open space.
- (e) A schematic plan summarizing:
- (1) Residential densities for each part of the development.
 - (2) Maximum square footage of gross floor area (under roof) of mercantile and office space.
 - (3) Acreage of common open space in each part of the development.
- (f) A document describing the proposed phasing program for the Planned Unit Development for all dwelling units, nondwelling struc-

tures, recreational and other common facilities and open space improvements.

(16) Approval, notice and authority to proceed.

(a) Upon approval of the Planned Unit Development application by the Planning Commission the Director of Planning forthwith shall:

(1) Furnish the developer with written notice of the approval.

(2) Cause the Planned Unit Development to be noted on the face of the Official Zoning Map of the City of Fort Wayne by outlining the boundaries of land affected thereby.

(3) File in the Commission Office a certified copy of the Planned Unit Development conceptual and schematic plan.

(b) The land described in the above notice shall be used only in accordance with the uses and densities shown on the certified Planned Unit Development conceptual and schematic plan, except as provided in subsection 21.

(c) When the above procedures have been completed, the developer may proceed with the preparation of the preliminary subdivision application.

(17) Subdivision Processing.

(a) Subdivision Plans. Subdivision plans shall be submitted in accordance with the Subdivision Control Ordinance to a scale of 1 inch = 100 feet. Subdivision plans also shall show the following:

(1) Preliminary

(A) Pedestrian ways for general circulation

(B) Outside parking areas

(C) Areas to be kept open for community use

(D) Parcels for subsequent sale (if any)

(E) Streets and easements

(2) Final

(A) Exact engineering data on boundaries, streets and ways, easements, parcels for sale

and monuments, in accordance with subdivision ordinance.

(B) Cross reference to recorded Planned Unit Development schematic plan.

(3) Final subdivision plans may be submitted for the whole Planned Unit Development at one time, or such plans may be submitted for a part or parts of the Planned Unit Development from time to time.

(b) Documents.

(1) At the time the preliminary subdivision application is filed with the Plan Commission, the developer also shall file:

(A) Project cost estimates for all public improvements in the subdivision plan;

(B) Other statements required by the subdivision ordinance.

(18) Final Approval. Within six (6) months following the approval of the preliminary subdivision plan, the applicant shall file with the Plan Commission a final subdivision plan containing in final form all the information required. Upon written request by the applicant, the Plan Commission, upon showing of good cause by the developer, may extend for six (6) months the period for filing the final subdivision plan. Within sixty (60) days after the complete final subdivision application is filed, with all necessary documents and exhibits, the Plan Commission must approve, approve and modify, or disapprove it.

(19) Recording. Upon approval of the final subdivision application, the Plan Commission shall notify the applicant and thereafter the maps and other related documents shall be recorded in the office of the Allen County Recorder. If the Plan Commission approves the final subdivision application with modifications, the applicant shall cause such modifications to be made and then proceed as above.

(20) Failure to begin Planned Unit Development.

(a) If no construction has begun in the Planned Unit Development within one (1) year from the approval of the Planned Unit Development and recording of documents, said approval shall lapse and be of no further effect. The Plan Commission, upon showing a good cause by the developer, may extend for periods of one (1) year, the time for beginning construction.

Nothing herein shall be considered as affecting such lapse and revocation if the developer commences construction. If construction commences, the final Planned Unit Development approval may be modified only in accordance with subsection 21 hereafter.

- (b) If the construction of the improvements in any subdivision within a Planned Unit Development has not begun within six (6) months from the date the approved subdivision plan was recorded, said subdivision approval shall lapse and be of no further effect. The Plan Commission, for good cause, may extend for periods of six (6) months the time for beginning construction. Except as provided in subsection A, above, the lapsing of subdivision approval shall not result in the lapsing of a Planned Unit Development approval. Notification by registered mail of such lapse shall be forwarded to the developer.

Improvements are defined as streets, water, sewer and storm drainage.

(21) Revisions of approval final Planned Unit Development. The development shall conform to the approved Planned Unit Development plan and the approved final subdivision plan. The applicant, his successors and assigns shall make no alterations, additions or deletions to the Planned Unit Development plan, the related documents, or to the site, except as provided herein. Upon final approval, changes may be made only pursuant to a new submission of a Planned Unit Development application which shall be processed and approved in accordance with this section. The Plan Commission may authorize minor changes, provided that the overall density is not increased, without a new Planned Unit Development application.

(22) Phasing. The establishment of common open spaces and construction of public or common recreational facilities shown on the recorded planned unit development plan together with the construction of other non-residential structures shall proceed substantially in accordance with the phasing program referred to in Section 15, Subsection 6.

After general construction commences, the Director of Planning shall review, at least once every six (6) months, all building permits issued and compare them to the overall development phasing program. If he determines that the rate of construction of residential units or non-residential structures substantially differs from the phasing program, he shall so notify the developer and the Zoning Enforcement Officer, in writing; thereafter the Zoning Enforcement Officer may issue such orders to the developer as he sees fit, and upon continued violation of this subsection may suspend the developer from further construction of dwelling units or non-residential structure until compliance is achieved.

(23) Violation. Whenever the Plan Commission shall find, in the case of any approved Planned Unit Development, that any of the terms, conditions, or restrictions upon which such approval was granted are not being complied with, the Plan Commission may rescind and revoke such approval. Notice thereof shall be given in accordance with subsection 20.

Violation of a Planned Unit Development, as approved, shall constitute a violation of the Zoning Ordinance.

Section 15. HEIGHT REQUIREMENTS - ALL DISTRICTS.

A. Except as hereinafter provided, no building or structure shall be erected, altered, enlarged or reconstructed to exceed the height limit established for the district where such building or structure is located, as follows:

<u>District</u>	<u>Maximum Height</u>
R-1, R-2	25 feet
R-A, R-B	35 feet
R-3, B-3-B, B-4	50 feet
B-1-A, B-1-B, B-2, B-2-A, IA	35 feet
B-3-A	400 feet
M-1, M-2, M-3	75 feet

B. Exception to Height Limitations:

(1) In "R1" and "R2" Districts, limiting height not to exceed 25 feet, any permitted structure may be increased in height not to exceed 35 feet, provided the required side yards are increased an additional foot for each 3 feet such structure exceeds 25 feet.

(2) In "RA" and "RB" Districts, limiting height not to exceed 35 feet, any permitted structure may be increased in height not to exceed 45 feet provided the required side yards are increased an additional foot for each 1 foot such structure exceeds 35 feet.

(3) On through lots 150 feet or less in depth, the height of a building may be measured from the adjoining curb level on either street.

(4) On through lots more than 150 feet in depth, the height regulations and basis of height measurements for the street permitting the greater height shall apply to depth of not more than 150 feet from that street.

		One Story Townhouse (or Apt.)	2 Story Detached	2 Story Townhouse	2 Story Apt.	3 Story Apt.	6 Story Apt.
R1	3.5	----	3.5	----	----	----	----
R2	3.5	4.4	3.5	4.4	4.4	----	----
R3	3.5	5.4	3.5	5.4	5.4	5.4	6.0
RA							
RB	3.8	4.8	3.8	4.8	4.8	4.8	----

Note: The land use intensity rating between 3 and 6 stories will be prorated over 6 stories determined by Commission.

B1A, B1B, B3B, B4 and M1 Districts are permitted the same land use intensity as an R3 District.

Land Use Intensity Rating & Ratios Permitted
(Based On Gross Acreage of Tract)

Land Use Intensity Rating	FAR	OSR	RSR	LSR	TCR	OCR
3.3	0.12	6.4	0.22	4.8	2.0	1.8
3.5	0.14	5.45	0.20	4.0	2.0	1.65
3.8	0.18	4.4	0.19	3.0	1.8	1.6
4.0	0.2	3.8	0.18	2.6	1.7	1.5
4.4	0.26	2.8	0.16	1.8	1.4	1.3
4.8	0.34	2.1	0.12	1.3	1.4	1.2
5.4	0.53	1.4	0.12	0.78	1.2	0.96
6.0	0.8	0.88	0.095	0.5	0.96	0.8

LAND USE INTENSITY RATING

FAR	Floor Area Ratio ..	is maximum square footage of total floor area permitted for each square foot of land area.
OSR	Open Space Ratio ..	is minimum square footage of open space required for each square foot of floor area.
LSR	Living Space Ratio ..	is minimum square footage of nonvehicular outdoor space required for each square foot of floor area.
RSR	Recreation Space Ratio ..	is minimum square footage of recreation space for each square foot of floor area.
OCR	Occupant Car Ratio ..	is minimum number of parking time limits required for each living unit.
TCR	Total Car Ratio ..	is minimum number of parking spaces required for each living unit.

(5) Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, television aerials, electrical transmission and communication poles and towers, theater screens, steeples, roof signs, flagpoles, chimneys, smokestacks, wireless masts, water tanks, grain elevators, silos, gas containers, industrial installation requiring a vertical production procedure, such as flour mills, steel mills and refineries, or similar structures may be erected above the height limits herein prescribed, but no such structures or any place above the height limit be allowed for the purpose of providing additional floor space for residential, business or industrial use.

(6) In an "R3" Zone located somewhere within the west one-half of Section 1, Section 2, North one-half of Section 11, or the

Northwest one-quarter of Section 12, all in Township 30 North, Range 12 East, Fort Wayne, Allen County, Indiana, a greater height than 50 feet may be permitted up to a maximum allowable height not to exceed twelve stories or 125 feet, whichever is less.

Section 16. RESIDENTIAL LOT AREA REQUIREMENTS.

A. Except as hereinafter provided, no residential building or structure shall be erected unless such building or structure conforms and no building or structure shall be altered, enlarged or reconstructed unless such alteration, enlargement or reconstruction conforms with the area requirements of the district in which it is located as follows:

<u>District</u>	<u>Min. Width at Building Line</u>	<u>Min. Lot Area (Square Feet)</u>	<u>Required Lot Area Per Dwelling Unit; No. of Units and Sq. Ft. Per Unit</u>
R1	50 feet	6000	1 6000
R2	50 feet	6000	1 6000 2 3000
R3, B1, B3A, B3B, B4, M1, M2	50 feet	6000	1 6000 2 3000 3 or more 1500
RA	75 feet	10000	1 10000 2 7000 3 or more see Section 14 (D), 10
RB	60 feet	7200	1 7200 2 5000 3 or more see Section 14 (D), 10

B. Exceptions to Area and Width Requirements:

(1) Recorded Lots Less than Minimum Area - Lots established by legally recorded plat or deed at the time of the enactment of this chapter which have less than the minimum area requirement established by this section, may nevertheless be used for any use permitted within the district in which such lot is located.

(2) Through Lot (May be Two Lots) - Where a through lot has a depth of 200 feet or more, and has an area of 10,000 square feet or more, said lot may be treated as two lots with the rear lines of each approximately equidistant from the front lot lines.

(3) "RA" Districts, City Water and City Sanitary Sewer Facilities - Where in an "RA" District, city water and city sanitary sewer facilities are installed, the minimum width at the building line, the minimum lot area and the required lot area per dwelling unit for lots served by such facilities shall be the same as that prescribed for an "RB" District.

(4) Where in an "RA" District, City water and a public or quasipublic aerobic-type treatment system designed to serve a minimum of fifty (50) families are installed, the minimum width at the building line, the minimum lot area and the required lot area per dwelling unit for lots served by such facilities shall be the same as that prescribed for an "RB" District.

1 (5) "R3" District - In an "R3" District the Zoning
2 Enforcement Officer may issue an improvement location permit and a certifi-
3 cate of occupancy for a multi-family dwelling having minimum lot areas of
4 one thousand (1,000) square feet per dwelling unit providing the following
5 conditions are satisfied:

6 (a) The number of bedrooms per living unit
7 does not exceed two bedrooms in any of the
8 living units where the minimum lot area is
9 less than 1,500 square feet per unit.

10 (b) The side yard which adjoins an apartment
11 building shall be increased an additional
12 three feet for each additional story above
13 two stories in height.

14 (c) The side and rear yards which adjoin a
15 single or double family residential build-
16 ing are increased three feet for each
17 additional living unit exceeding a density
18 of 1,500 square feet per unit in addition
19 to the normal yard requirements set out in
20 Section 17 of this Code. However, the
21 combined total required side or rear yard
22 as established by all sections of the
23 Zoning Ordinance need not exceed 150 feet.

24 (d) The Zoning Enforcement Officer shall issue
25 an improvement location permit when the
26 developer has satisfactorily proven to the
27 Zoning Enforcement Officer that the fol-
28 lowing conditions exist:

29 (1) The increased density that will
30 result by the installation of this
31 use will not impose any hardship on
32 the existing schools serving the
33 area in which the development will
34 take place.

35 (2) All existing sewers, water lines,
36 streets and sidewalks serving the
37 area proposed for development are
38 adequate to handle the increased
39 density that will occur as a result
40 of the establishment of the use
41 involved.

42 (3) The increased density as proposed by
43 the improvement location permit will
44 not impose any hardship on the
45 following elements of the Develop-
46 ment Plan of the City of Fort Wayne:

- 47 (A) Land Use Plan
48 (B) Thoroughfare Plan
49 (C) Sewer Plan
50 (D) Water Plan
51 (E) School Plan
52 (F) Park and Playground Plan

53 (e) If the Zoning Enforcement Officer does not
54 issue an improvement location permit
55 within fifteen (15) days after written

1 demand to do so by a developer or appli-
2 cant, an appeal will lie to the Board of
3 Zoning Appeals.

4 (f) The parcel of land upon which the use is
5 erected shall have direct public access to
6 a street as defined in the Zoning Ordinance
7 for purposes of vehicular traffic, off-street
8 parking, utilities, and other services such as
9 mail delivery, garbage collection, fire and emergency
10 units, etc.

11 (g) The arrangement of buildings shall be such
12 that in the event the land is subdivided
13 there shall be sufficient space between
14 buildings, between buildings and the street,
15 and between buildings and property lines to
16 allow for the minimum platting requirements
17 of the Subdivision Control Ordinance and the
18 Zoning Ordinance of the City of Fort Wayne.

19 (h) The minimum area of the site to be developed,
20 exclusive of all public streets, alleys, or
21 other public ways, shall not be less than
22 45,000 square feet with a minimum lot
23 frontage of 150 feet.

24 (i) The nearest 15 feet to any side or rear
25 property line adjoining a single family
26 residential building shall be landscaped
27 and in no event shall parking be permitted
28 nearer than 15 feet to the side or rear
29 property line adjoining said single family
30 residential building.

31 (j) All parking spaces on existing or proposed
32 street right-of-way shall be for parallel
parking only.

33 (k) In no event shall the Zoning Enforcement
34 Officer issue an improvement location permit
35 or a certificate of occupancy for a use where
36 the density exceeds one thousand (1,000) square
37 feet per living unit for structures of three (3)
38 to five (5) stories and one thousand two
39 hundred and fifty (1,250) square feet for
40 structures two (2) stories or less except by
41 action of the Board of Zoning Appeals.

42 (l) All improvements of which the maintenance
43 would become the responsibility of the City
44 of Fort Wayne in the event of subdivision
45 shall meet the requirements of the Subdivision
46 Control Ordinance appearing as Chapter 26 of
47 this Code, and the specifications of the Fort
48 Wayne Board of Public Works.

49 (6) In an "R3" Zone located somewhere within
50 the west one-half of Section 1, Section 2, North
51 one-half of Section 11, or the Northwest one-
52 quarter of Section 12, all in Township 30 North,
53 Range 12 East, Fort Wayne, Allen County, Indiana,
54 the minimum lot area per dwelling

unit may be less than the 1,000 square feet per unit as required by paragraph (5), Subsection B, Section 16, Article III, Chapter 36 of this Municipal Code, providing the minimum lot area per dwelling unit is not less than 700 square feet per unit in the case of six through nine stories in height or 600 square feet per dwelling unit in the case of ten through twelve stories in height, subject to the following conditions:

- (a) The parcel of land upon which the use is erected shall have direct public access to a street as defined in the Zoning Ordinance for vehicular traffic, off-street parking, utilities, and other services such as mail delivery, garbage collection, fire and emergency units, etc.
- (b) The number of bedrooms per living unit does not exceed two bedrooms in any of the dwelling units where the minimum lot area is less than 700 square feet per unit.

C. Only One Main Building On a Lot - Every building hereafter erected shall be located on a lot as herein defined. In no case shall there be more than one residential building and its accessory buildings on one lot.

Section 17. YARD REQUIREMENTS - ALL DISTRICTS

A. Except as hereinafter provided, no building or structure shall be erected unless such building or structure conforms, and no building or structure shall be altered, enlarged or reconstructed unless such alteration, enlargement, or reconstruction conforms with the yard regulations of the district in which it is located, as follows:

(1) Front Yard Requirements - There shall be a front yard which shall have a minimum depth as follows:

<u>District</u>	<u>Depth in Feet</u>	
R1, R2, R3	25	
RA, RB -	Equal to one-half of the width of the street right-of-way on which the lot fronts. The right-of-way width shall be either that of an existing street or a proposed street identified in the City of Fort Wayne Thoroughfare Plan, whichever is greater, provided that the required depth of these front yards shall not be less than 30 feet and need not be more than 60 feet.	
B1A, B1B -	Other Than Residential Use	15
B3A, B3B		None
M1, M2 -	Other Than Residential Use	None
B2, B2A, B4, M3 -	Other Than Residential Use	75
B1A, B1B, B4, M1, M2 -	For Residential Use	25

(2) Front Yards On A Through Lot - At each end of a through lot there shall be a front yard of the depth required by this section for the district in which each street frontage is located, and one of such front yards may serve as a required rear yard.

(3) Front Yard, Between Buidings - Where a lot is situated between two lots, each of which has an existing main building thereon, the front yard requirements of such lot shall be the average of the front yards of said existing buildings.

(4) Front Yard, Adjoining Building - Where a lot abuts only one lot having an existing main building thereon, the front yard requirement of such lot shall be the average of the front yard of the existing building and the required front yard.

(5) Side Yard Requirements - There shall be two side yards for each lot, the minimum width of each of which and the aggregate width of both of which shall be as follows:

<u>District</u>	<u>Width of Each Yard</u>	<u>Aggregate Width of Both Yards</u>
R1, R2, R3 and B1A, B1B, B3B, B4, M1, M2 when used for residential purposes on first floor.	5 feet	25% of Lot Width or 20 feet whichever is less
RA, RB - One Dwelling Unit	10% of Lot Width	25% of Lot Width
More than one dwell- ing unit.	Above, plus 2 feet per additional unit	Above, plus 4 feet per additional unit
B1A, B1B, B2, B2A, B3B, B4, M1, M2, M3, when the lot abuts an "R" District	3 feet for each 12 feet of building height, or fraction thereof, but not less than 4 feet on the side which abuts an "R" District	Twice the "Each Yard" Requirement where applicable
B1A, B1B, B2, B2A, B3B, B4, M1, M2, M3, when the lot does not abut an "R" District	No requirements	None
B3A	No Requirements	None

(6) Side Yards Waived - For the purpose of side yard regulations, dwellings with common party walls shall be considered as one building occupying one lot.

(7) Rear Yard Requirements - There shall be a rear yard for each lot as indicated below, and the minimum depth of such yard shall be as follows:

<u>District</u>	<u>Depth</u>
For Residential Use in All Districts Permitting Such Use.	25% of Lot Depth, or 25 feet, whichever is less.
B1A, B1B, B2, B2A, B3A, B3B, B4, M1, M2, M3, when abutting an "R" District, otherwise none required.	20% of Lot Depth, or 20 feet, whichever is less.

(8) Rear Yard, Accessory Building - An accessory building not exceeding 20 feet in height may occupy not more than 30% of the area of a required rear yard, provided that no accessory building shall be closer than three (3) feet to a side lot line.

B. General Provisions and Exceptions to Yard Requirements:

(1) Yards Apply to Only One Building - No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space or any lot be considered as providing a yard or open space for another lot whereon a building is to be erected.

(2) Projections Into Yards:

(a) Cornice, Sill, Chimney or Fireplace - A cornice, eave belt course, sill, canopy or other similar architectural feature (not including bay window or other vertical projection which shall be a part of the main building) may extend or project into a required side yard not more than 2 inches for each 1 foot of width of such yard and may extend or project into a required front or rear yard not more than 30 inches. Chimneys or fireplaces may project into a required front, side or rear yard not more than 2 feet, provided the width of such side yard is not reduced to less than 3 feet.

(b) Fire Escape - A fire escape may extend or project into any front, side or rear yard not more than 4 feet.

(c) Open Stairway or Balcony - An open, unenclosed stairway or balcony, not covered by a roof or canopy may extend or project into a required rear yard not more than 4 feet and such balcony may extend into a required front yard not more than 30 inches.

(d) Open Porch - An open platform or landing which does not extend above the level of the first floor of the building, may extend or project into any required front, side or rear yard not more than 6 feet, provided, that the width of a side yard is not reduced to less than 3 feet.

(e) Fence or Wall - A fence, latticework screen, hedge or wall, not more than 7 feet in height, may be located in the required side or rear yard, and a hedge, maintained so as not to exceed 3 feet in height, may be located in any required front yard. Provided, however, that nothing contained in this chapter shall be deemed to prohibit the construction or maintenance of a fence of any height in connection with any permitted agricultural use.

(f) Trees, Shrubs, Flowers, or Plants - Trees, shrubs, flowers or plants shall be permitted in any required front, side or rear yard, provided it does not violate the provisions for corner setbacks as required in this section.

(g) Other Specified Structures - Walks, drive-ways, curbs, retaining walls, mailboxes, name plates, lamp posts, bird baths and structures of a like nature shall be permitted in any required front, side or rear yard.

(3) Corner Visibility - No fence, wall, hedge, other planting or other obstruction to vision, extending in excess of 3 feet above the established street center line grade shall be erected or maintained on that part of the corner lot that is included between the lines of intersecting streets and a line intersecting them at points of 15 feet distant from the intersection of the street lines.

(4) On a corner lot the required rear yard, as defined by the Zoning Ordinance, may be reduced to no less than fifteen (15) feet; subject to the following conditions:

(a) The front yard complies with the minimum setback requirements as established by other sections of the Zoning Ordinance or platted building lines.

(b) The side yard, as defined by the Zoning Ordinance, adjacent to a side street shall also meet the minimum front yard requirements of the Zoning Ordinance or platted building lines, which ever are more restrictive.

(c) The internal side yard, as defined by the Zoning Ordinance, shall not be less than twenty-five (25) feet.

In the event that a permit is issued based upon the above exception, allowing a fifteen (15) foot rear yard, than in no event shall the internal side yard of twenty-five (25) feet be encroached upon except by variance of the Board of Zoning Appeals.

(5) On an internal lot which does not have parallel sides or parallel front and rear lines, the required side or rear yards may be established by using an average distance between the building and the non-parallel side or rear line. However, in no event, shall any part of the house be nearer than six (6) feet from a side line and fifteen (15) feet from a rear line, unless authorized by the Board of Zoning Appeals.

4742

1 (6) Junk Yard, Refuse Dumps and Open Land Use Screen
2 Fencing:

3 (a) An opaque, solid fence having a height
4 above ground level of not less than seven
5 (7') feet shall be erected on all peri-
6 meters of all Junk Yards, as defined in
7 this chapter, Refuse Dumps and Public
8 Garages with outside over-night storage of
9 ten (10) or more vehicles, as defined in
10 this chapter. The fencing shall be uni-
11 form material, color, and height,
12 provided, however, that the provisions of
13 paragraph (3) of this section referring to
14 corner visibility must be adhered to.

15 (b) Any Junk Yard, Refuse Dump, or Public
16 Garage with over-night storage for ten
17 (10) or more vehicles existing as a per-
18 mitted or non-conforming use, whether
19 legal or not, upon effective date of this
20 paragraph, must, if they are to continue,
21 have an opaque fence as described in
22 paragraph (a) above erected on all the
23 perimeters of said use not later than six
24 (6) months from enactment of this ordi-
25 nance.

26 Section 18. LOT COVERAGE IN SPECIFIED DISTRICTS.

27 In the districts hereinafter listed, residential buildings or
28 structures, including accessory buildings or structures, shall not be
29 erected, enlarged or reconstructed to exceed the maximum lot coverage estab-
30 lished for the district wherein such buildings or structures are located as
31 given below. In computing such coverage, the area of open porches and
32 terraces shall be excluded.

<u>District</u>	<u>Maximum Coverage</u>
R1, R2, R3, B1A, B1B, B3B, B4, M1, M2	30% of lot area or 1,800 square feet, whichever is greater.
RA, RB	25% of lot area

26 Section 19. RESIDENTIAL BUILDING SIZE - SPECIFIED DISTRICTS.

27 No building or structure shall be erected, enlarged, or recon-
28 structed for residential purposes having a ground floor area, exclusive of
29 unenclosed porches, terraces, breezeways and garages, of less than the
30 minimum established for the district wherein such building or structure is
31 located as follows:
32

4742

<u>District</u>	<u>Ground Floor Area of Bldg. (Sq.Ft.)</u>	
	<u>One Story</u>	<u>More Than One Story</u>
R1	672	480
R2 - One Dwelling Unit	672	480
Two Dwelling Unit	960	480
R3 - One Dwelling Unit	672	480
Two Dwelling Unit	960	480
Three or More Units	Above, Plus 480 per unit	Above, Plus 400 per unit
RA, RB, B1A, B1B, B3A B3B, B4, M1, M2	Same Requirements as R3 District	

ARTICLE V. ADMINISTRATION AND ENFORCEMENT

Section 20. IMPROVEMENT LOCATION PERMIT.

A. No Building or structure, except buildings incidental to non-residential agricultural uses shall be erected, reconstructed, enlarged or moved until an Improvement Location Permit shall have been applied for in writing and issued by the Zoning Enforcement Officer.

B. No Improvement Location Permit shall be issued by the Zoning Enforcement Officer for the proposed erection, reconstruction, enlargement or moving of a building or structure unless the proposed erection, reconstruction, enlargement or moving of a building or structure conforms with the provisions of this chapter.

C. Applications for Improvement Location Permits shall be made upon form prescribed by the Zoning Enforcement Officer and shall be accompanied by plans and specifications of sufficient detail to enable the Zoning Enforcement Officer to determine whether the proposed improvements will comply with the provisions of this chapter.

D. The applicant shall post said permit in a prominent place on the premises prior to and during the period of erection, reconstruction, enlargement or moving.

E. Every permit may be revoked if active work is not commenced within sixty (60) days after the date of its issue, and continued with due diligence to completion; and the Zoning Enforcement Officer shall judge if due diligence is being shown and shall notify the owner or agent in case due diligence is not being shown.

F. If the Zoning Enforcement Officer determines that the work under any permit is not being continued with due diligence to completion or is not proceeding according to the detailed statement, plans and specifications, upon which such permit was issued, or is proceeding in violation of law, it shall be his duty to give written notice thereof to the owner or his agent, requiring that the same must be immediately rectified.

G. If the owner or his agent neglects to comply with the provisions of such notice within such time as may be specified by the Zoning Enforcement Officer, or fails to commence active work within sixty (60) days after the date of issue, it shall be the further duty of the Zoning Enforcement Officer to revoke said permit and written notice thereof shall be immediately served upon the owner, agent, superintendent or contractor in charge of the work, or posted on the property.

H. After such revocation of permit, any person performing any work in or about said structure, building or premises shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than one dollar nor more than one hundred dollars.

Section 21. CERTIFICATE OF OCCUPANCY.

A. No occupancy, use or change of use, except buildings incidental to non-residential agricultural uses shall take place until a certificate of occupancy shall have been applied for in writing and issued by the Zoning Enforcement Officer, in the following cases:

(1) Occupancy and use of a building or structure hereafter erected or enlarged.

(2) Change in use of an existing building or structure.

(3) Occupancy and use of vacant land except for the raising of crops.

(4) Change in the use of land to a use of a different classification except for the raising of crops.

(5) Any change in use of a nonconforming use.

B. If the proposed use is in conformity with the provisions of this chapter, the Certificate of Occupancy therefore shall be issued within three (3) days after the application for the same has been made; provided, however, that no Certificate of Occupancy shall be issued in connection with the construction, alteration, enlargement or moving of a building or structure until such construction, alteration, enlargement or moving shall have been completed. Each Certificate of Occupancy shall state that the building or proposed use of a building or land complies with all the provisions of this chapter.

C. All improvements in any subdivision duly recorded after July 1, 1964, shall be installed in a manner that complies with the general and detailed specifications handbook adopted by the Board of Public Works of the city on August 14, 1961, and any amendments thereof which have been or may be duly adopted by such board from time to time, before a Certificate of Occupancy shall be issued. A Certificate of Occupancy for any use lying within the jurisdiction of the City Plan Commission of the city shall not be issued until all contractual inspection costs or inspection fees required by General Ordinance No. G-40, adopted on August 25, 1959, and appearing as Title 28A in the 1959 edition of the Municipal Code of the city, and any amendments thereof, have been paid to the Engineering Permit Office.

Section 22. COMPLETION OF EXISTING BUILDINGS.

A. Nothing in this chapter shall require any change in the plans, construction or intended use of any building or structure, the construction of which was legally authorized by March 1, 1955 date of this chapter and which construction is being diligently prosecuted pursuant to such authority. Such entire building or structure shall be completed within two (2) years from March 1, 1955.

B. Nothing herein shall prevent the reconstruction of a wall or other structural part of a building declared unsafe by the proper authorities of the city or of the state.

Section 23. ENFORCEMENT.

A. It shall be the duty of the Zoning Enforcement Officer to enforce the provisions of this chapter in the manner and form with the powers provided by this chapter and any and all other provisions of this Code, and as provided in the laws of the State of Indiana.

B. All departments, officials and employees of the city which are vested with the duty of authority to issue permits or licenses shall conform to the provisions of this chapter and shall issue no permit or license for any use, building or purpose if the same would be in conflict with the provisions of this chapter.

Section 24. FILING FEES.

A. For each application for an improvement location permit, the sum of Three Dollars (\$3.00) to be paid to and collected by the Zoning Enforcement Officer.

B. For each application for a certificate of occupancy the sum of Three Dollars (\$3.00) to be paid to and collected by the Zoning Enforcement Officer.

C. For each petition for an appeal from the decision of the Zoning Enforcement Officer to the Board of Zoning Appeals, a fee of Fifty Dollars (\$50.00) to be paid to and collected by the Zoning Enforcement Officer, the receipt for which shall accompany the petition.

D. For each application for the approval by the Commission of a "B2" Regional Shopping Center Development Plan or a "B2A" Neighborhood Shopping Center Development Plan, or an "IA" Interchange Access Center Development Plan, a fee of Fifty Dollars (\$50.00) to be paid to and collected by the Zoning Enforcement Officer, the receipt for which shall accompany the application.

E. For each petition for an amendment to this chapter, a fee of fifty dollars (\$50.00) to be paid to and collected by the City Controller the receipt for which shall accompany the petition.

F. No part of any filing fee paid pursuant to this section shall be returnable to the applicant or petitioner.

Section 25. PENALTIES.

A. Any person, whether as principal, agent, owner, lessee, tenant, contractor, builder, architect, engineer or otherwise who violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten dollars nor more than three hundred dollars for each offense. Each day of the existence of any violation of this chapter shall be a separate offense.

B. The erection, construction, enlargement, conversion, moving or maintenance of any building or structure and the use of any land or building which is continued, operated or maintained contrary to any provisions of this chapter is hereby declared to be a nuisance and in violation of this chapter and unlawful. The Plan Commission by its Zoning Enforcement Officer may institute a suit for injunction in the Circuit Court or any Superior Court of the County to restrain any person or governmental unit from violating any provision of this chapter and to cause such violation to be prevented, abated or removed. Such action may also be instituted by any property owner who may be especially damaged by the violation of any provision of this chapter.

4742

1 C. The remedies provided for in this section shall be
2 cumulative and not exclusive and shall be in addition to any other remedies
3 provided by law.

4 ARTICLE VI. BOARD OF ZONING APPEALS

5 Section 26. ORGANIZATION.

6 The Board of Zoning Appeals of the city, as presently constituted,
7 is hereby recreated and re-established and continued and shall exist here-
8 after subject to and in accordance with the provisions of Chapter 174 of the
9 Acts of 1947 of the General Assembly of the State and all acts now or here-
after amendatory thereto.

10 Section 27. MEETINGS.

11 The Board shall meet at least once each month on a regular day set
12 by the Board and at other times at the call of the chairman or of not less
13 than three (3) members thereof.

14 Section 28. PROCEDURE.

15 The procedure of the Board shall be governed by the provision of
16 Chapter 174 of the Acts of 1947 of the General Assembly of the State of
17 Indiana and all acts amendatory thereto. The Board shall adopt rules and
18 regulations concerning the filing of appeals, the giving of notices, the
conduct of its hearings and for all other of its operations and procedures
as shall be necessary to carry out its duties. It shall keep minutes of its
proceedings, records of its examinations and other official actions, prepare
written findings and record the vote on all actions taken. All minutes and
records of the Board shall be public.

19 Section 29. POWERS OF THE BOARD OF ZONING APPEALS.

20 A. The Board of Zoning Appeals shall:

21 (1) Hear and determine appeals from and review any
22 order, requirement decision or determination made by the Zoning Enforcement
23 Officer and any other administrative official or board charged with the
enforcement of this chapter or any regulation adopted pursuant hereto;

24 (2) Permit and authorize contingent uses and special
25 uses subject to and within the limitations prescribed by the provisions of
this chapter;

26 (3) Authorize upon appeal in specific cases such
27 variance from the terms of this chapter as will not be contrary to the
28 public interest, where, owing to special conditions a literal enforcement of
the provisions of this chapter will result in unnecessary hardship, and so
29 that the spirit of this chapter shall be observed and substantial justice
done; provided, however, that no action shall be taken or decision made
except after public hearing.

30 B. In exercising its powers, the Board may reverse or
31 affirm, wholly or partly, or may modify the order, requirement, decision or
32 determination appealed from as in its opinion ought to be done in the pre-
mises, and to that end shall have all powers of the officer or board from
whom the appeal is taken. It may impose such conditions, regarding the
location, character and other features of the proposed building, structure
or use with which the appeal before it is concerned, as it may deem advis-

4742
1 able in furtherance of the purposes of this chapter and the protection of
2 the public convenience and welfare, provided, however, that it shall not
3 permit any use in any district which would be in conflict with the permitted
uses of such district under the terms of this chapter.

4 ARTICLE VII. PRIVATE RESTRICTIONS

5 Section 30. WHEN CHAPTER MORE RESTRICTIVE.

6 Whenever the provisions of this chapter are more restrictive or
7 impose higher standards than are required by any statute of the state or any
provision of any other chapter of this Code or of any other ordinance of
8 this city or by any restrictions or limitations as to particular property
established by deed, plat or otherwise running with the land, the provisions
9 of this chapter shall govern.

10 Section 31. WHEN OTHER PROVISIONS MORE RESTRICTIVE.

11 Whenever the provisions of any statute or of any other chapter of
12 this Code or of any other ordinance of this city, or any restriction or
13 limitation established by plat or deed or otherwise running with the land,
is more restrictive or imposes higher standards than are required by this
chapter, the provisions of such statute, chapter, ordinance, plat, deed,
14 restriction or limitation shall govern.

15 ARTICLE VIII. SEVERABILITY.

16 Section 32. If any part, parts, section, sections, provision,
17 clause or portion of this chapter shall be adjudged invalid or unconstitutional,
such invalidity or unconstitutionality shall not affect the validity
18 or constitutionality of this chapter as a whole or of any other part, section,
clause, provision or portion of this chapter.

19 ARTICLE IX. HISTORICAL DISTRICTS.

20 Section 33. PURPOSES

21 In order to promote the economic and general welfare of the citizens
22 of Fort Wayne and to insure the harmonious, orderly and efficient
23 growth and development of the municipality, it is deemed essential by the
City of Fort Wayne that the qualities relating to the history of the City
24 and a harmonious outward appearance of structures which support and enhance
property values and attract residents be preserved. Some of these qualities
25 are the continued existence and preservation of historic areas and buildings,
the continued construction, reconstruction, and remodeling of buildings
26 in the historic styles and a general harmony as to style, form, proportion,
texture and material between the buildings of historic design and those
27 of more modern design. This purpose is advanced through the preservation
and protection of the historically or architecturally worthy structures
28 which impart a distinct aspect to the City and which serve as visible
reminders of the historic heritage of the City. A Historic District shall
29 apply to the parcel(s) so designated and any structure(s) or appurtenances
found thereon. Although this ordinance does not directly relate to the
30 procedures for designation of a structure or area on the National Register
of Historic Places, coordination between this ordinance and the National
31 Register's procedures is strongly encouraged.
32

Section 34. DEFINITIONS

A. Review Board - Fort Wayne Historic Preservation Review Board.

B. Certificate of Appropriateness - A certificate issued by the Zoning Enforcement Officer stating that the occupancy, use or alteration of land, building or structure in a Historic District referred to therein complies with the provisions of this chapter.

C. Commission - Fort Wayne City Plan Commission.

D. Demolition - The razing of any exterior architectural feature or structure, including its ruining by neglect of necessary maintenance and repairs, or either.

E. Demolition Permit - A permit which authorizes the razing of any exterior architectural feature or structure.

F. Economically Unfeasible - A cost in excess of anticipated return, considering all viable alternatives.

G. Emergency Repair - Replacement of any external component of a primary structure, which if delayed could cause severe damage to the other components of the structure or which would prohibit adequate protection from the weather elements and thus jeopardize the health, welfare or safety of the occupants.

H. Form - The shape and structure of something as distinguished from its material.

I. Improvement - Any place, structure, building, fixture, or man-made object which in whole or part constitutes a visually significant exterior physical betterment, adornment, or enhancement of any real property.

J. Landmark - Any physical feature or improvement designed by the City Council as such, which in whole or part has historical, social, cultural, architectural, or aesthetic significance to the City and has been in existence for no fewer than fifty (50) years.

K. Material - Matter that has qualities which give it individuality and by which it may be categorized.

L. Overlay District - A district which imposes requirements in addition to the regulations of the underlying zoning district.

M. Physically Unfeasible - Lack of existence of labor, material and/or techniques to perform the work.

N. Planning Department - The Department of Community Development and Planning or such person authorized.

O. Proportion - Harmonious relation of parts to each other or the whole.

P. Site Improvement - All or any of the landscaping, planting, paving, steps, fencing, masonry walls, and other significant attributing features on the site of any structure.

Q. Style - A manner of expression characteristic of an individual, period, school or nation.

4742

1 R. Texture - The visual or physical surface character-
2 istics and appearance of a structure.

3 Section 35. CREATION OF THE HISTORIC PRESERVATION REVIEW BOARD

4 A. The Review Board shall consist of seven (7) members.
5 The voting members shall be appointed by the Mayor of the City of Fort Wayne
6 and approved by the Fort Wayne City Council. One member must have Indiana
7 architectural certification, one member shall be a Real Estate Broker, one
8 member shall be a contractor licenses by the Fort Wayne/Allen County Build-
9 ing Department, one member shall be a professional historian, and three
10 members shall be chosen from the community-at-large. Voting members shall
11 each serve for staggered terms of three (3) years; however, the initial
12 terms of members may be for one (1) year, two (2) years, or three (3) years
13 in order for the terms to be staggered. A vacancy shall be filled through
14 appointment by the Mayor for the duration of the unexpired term and approved
15 by the Fort Wayne City Council. No members shall be employed by the City of
16 Fort Wayne. Members must be residents of the City of Fort Wayne who have
17 demonstrated an interest in the preservation and development of historic
18 buildings and areas.

12 B. Members of the Review Board shall serve without
13 compensation but shall be paid for reasonable expenses incurred in the
14 performance of their duties.

14 C. The Review Board shall elect from its membership a
15 Chairperson, Vice-Chairperson and Secretary who shall serve for one (1) year
16 and who may be reelected. The Review Board shall adopt rules for the trans-
17 action of its business not inconsistent with this Section. The rules must
18 include the time and place of regular meetings and a procedure for the
19 calling of special meetings. All scheduled meetings of the Review Board
20 must be open to the public and a public record shall be kept of the Review
21 Board's resolutions, proceedings, and actions. The secretary shall be
22 responsible for the maintenance of the Review Board's records.

19 D. Any official action of the Review Board requires a
20 consensus of a majority of the members. For the Review Board to take action
21 a quorum of four (4) members must be present.

21 E. The Review Board shall hold regular meetings, at least
22 monthly, except when it has no business.

22 F. Each official of the governmental unit who has
23 responsibility for building inspection, building permits, planning, or
24 zoning shall provide such technical, administrative and clerical assistance
25 as may be requested by the Review Board.

25 Section 36. ESTABLISHMENT AND REGULATION OF HISTORIC PRESERVATION
26 DISTRICTS.

26 A. The City Council may by ordinance establish, amend, or
27 rescind one or more areas or structures of the city as Historic Preservation
28 Districts, in accordance with the procedures and standards stated in this
29 Article. A Historic Preservation District is subject to the regulations and
30 restrictions imposed by this Article as well as other Articles of this
31 Ordinance. A Historic Preservation District applies to areas or structures
32 so established and any appurtenances therein or thereto.

31 B. Amendments may be initiated by a petition from the
32 Plan Commission, or by the owners of 50% or more of the area involved in the
33 petition. Petitions shall be filed in the Planning Department on the form
34 prescribed by the Plan Commission.

4742

1 C. Upon receipt by the Review Board, such application
2 shall be forwarded to the Planning Department, which shall investigate the
3 property which is the subject of such application and shall prepare a writ-
ten report for the Review Board.

4 D. At the next regularly scheduled meeting of the Review
5 Board following its receipt of the Planning Department's report, such appli-
cation shall be considered by said Review Board, which shall recommend to
the Plan Commission within 180 days:

6 (1) that such application be approved as submitted
7 or as modified by that Review Board, or,

8 (2) that action be deferred, or,

9 (3) that such application shall be denied.

10 E. The Plan Commission shall hold a public hearing on such
11 petition and recommendation by the Review Board. At least ten (10) days
12 prior to the date set for such hearing, the Plan Commission shall publish in
a newspaper of general circulation in the City, a notice of time and place
of such hearing. Following such hearing the Plan Commission shall consider
such petition and shall recommend to the City Council:

13 (1) that such petition be approved, as submitted or
14 as modified by the Plan Commission, or,

15 (2) that action be deferred, or,

16 (3) that such petition be denied.

17 F. Thereafter, an ordinance relative to such petitions
18 shall be prepared and submitted to the City Council, which shall proceed
19 with the consideration of such proposed ordinance in the same manner and
subject to the same voting requirements as would apply in the case of an
ordinance to rezone land, provided that the City Council may amend such
proposed ordinance prior to its adoption in any manner it may deem necessary
to accomplish the purposes of this section.

20 G. A Historic Preservation District shall not be estab-
21 lished unless the proposed area or structure is consistent with the pur-
22 poses of this Article and one or more of the following standards.

23 (1) The presence of one or more styles of architec-
24 ture: (a) reflecting one or more historical periods; (b) having a unique
significance, interest, importance, or value, or; (c) in danger of becoming
extinct.

25 (2) The presence of one or more structures or struc-
26 tural features which are of historical, social, cultural, architectural, or
aesthetic significance, interest, importance, or value.

27 (3) The presence of a distinct historic interest of
28 a local, state, or national character.

29 Section 37. CERTIFICATES OF APPROPRIATENESS

30 A. In Historic Districts no exterior portion of any
31 structure, (including walls, fences, light fixtures, colors, steps and
parking lots or other appurtenant features) utility or sign, shall be
erected, altered, restored, moved or demolished until an application for a
Certificate of Appropriateness has been submitted to and approved by the
32 Review Board.

4742

1 B. Nothing in this Article shall be construed to prevent
2 the ordinance repairs and maintenance of any such structure.

3 C. An application for a Certificate of Appropriateness
4 shall be filed in the Planning Department on the form prescribed by the
5 Review Board. Within ten (10) days of receipt, such application shall be
6 forwarded to the Review Board for consideration. The Review Board or Plan-
7 ning Department may require submission of such reports and exhibits as are
8 reasonably necessary in making a determination as to appropriateness. For
9 construction, alteration or renovation in Historic Districts, the Review
10 Board shall consider an application for a Certificate of Appropriateness
11 within thirty (30) days following the receipt of the application.

12 D. A Certificate of Appropriateness shall not be issued
13 unless the Review Board finds that the proposed work is appropriate and
14 consistent with the purposes of this Article and after considering the
15 following standards:

16 (1) The effect of the proposed work in creating,
17 changing, destroying, or affecting the exterior architectural features of
18 the structure upon which such work is to be done,

19 (2) The relationship between such exterior archi-
20 tectural features, together with such effects, and the exterior architec-
21 tural features of the structure,

22 (3) The relationship between the results of such
23 work and the exterior architectural features of any other, neighboring
24 structures in such district,

25 (4) The effects of such work upon the preservation,
26 protection, enhancement, perpetuation, and use of the structure.

27 In appraising such effects and relationships, the
28 factors of historical, social, cultural, architectural, and aesthetic
29 significance, interest, importance, and values, and architectural style,
30 design, arrangement, texture, material and color shall be considered. The
31 Review Board may adopt other criteria to follow in the review of applica-
32 tions for Certificate of Appropriateness as it deems appropriate.

33 E. In the event the Building Department, the Fire Depart-
34 ment, the City/County Health Department, or any agency of the City/County,
35 or any Court having jurisdiction thereof, (a) shall determine that a struc-
36 ture or any part thereof within a Historic Preservation District is hazar-
37 dous or dangerous to the health and safety of persons or to property, and,
38 (b) having authority to do so, shall order the construction, reconstruction,
39 alteration, or demolition of any such structure, or part thereof to correct
40 the conditions determined to be hazardous or dangerous, nothing in this
41 Article shall be so construed as making it unlawful for any person without
42 the prior issuance of a Certificate of Appropriateness to comply with such
43 order to the extent that such compliance corrects the conditions so deter-
44 mined to be hazardous or dangerous, (c) any agency of the City issuing such
45 an order shall make every effort to insure that the construction, recon-
46 struction, alteration, or demolition is accomplished in keeping with the
47 spirit of this ordinance whenever possible.

48 F. Any agency of the City issuing such an order shall
49 give the Review Board notice of its order or proposed order. No agency of
50 the City shall issue such an order to any person not having a Certificate of
51 Appropriateness for such work within a Historic Preservation District when
52 there is sufficient time to apply for and obtain a Certificate of Appro-
53 priateness nor issue such an order for work which would be more than
54 necessary to correct such hazardous or dangerous conditions.

G. For demolition within a Historic Preservation District such application for a Certificate of Appropriateness shall be filed with the Planning Department on the form prescribed by the Review Board. Within ten (10) days of receipt, such application shall be scheduled with the Review Board for consideration. The Review Board or Planning Department may require submission of such reports and exhibits as are reasonably necessary in making a determination as to appropriateness. A demolition permit shall not be issued until the Review Board takes one of the following actions:

(1) If preservation is found to be physically or economically unfeasible, the Review Board shall authorize issuance of a demolition permit.

(2) If preservation is found to be physically or economically feasible, the Review Board shall delay such action for a period not to exceed one (1) year, during which time it shall take whatever public or private action is within its power leading to preservation.

If after sixty (60) days the Review Board has not taken final action, the City/County Building Department may treat such application as though demolition has been authorized by the Review Board. Notice shall be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street. In addition, notice shall be published in a newspaper of general local circulation at least three (3) times prior to demolition, the final notice of which shall be not less than fifteen (15) days prior to the date of the permit, and the first notice of which shall be published no more than fifteen (15) days after the application for a permit to demolish is filed. The purpose of this section is to preserve historic buildings which are important to the education, culture, traditions and the economic values of the governmental unit, interested persons, historical societies or organizations the opportunity to acquire or to arrange for the preservation of such buildings. The Review Board may at any time during such stay approve a Certificate of Appropriateness in which event a permit shall be issued without further delay and demolition may proceed.

H. Any person or party aggrieved by a decision made by the Historic Preservation Review Board upon an application for Certification of Appropriateness shall be entitled to a review thereof by the Board of Zoning Appeals of the City in accordance with the provisions of this Section. Such review may be had by filing a petition for review with the Board of Zoning Appeals within fifteen (15) days after receipt of notice that such determination is made by the Historic Preservation Review Board. The Board of Zoning Appeals shall consider such petition and shall limit its review to whether the decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. The Board of Zoning Appeals may affirm, remand, or reverse its decision. Any person or party aggrieved by the decision and the order of the Board of Zoning Appeals may appeal to the Allen Circuit Court or Allen Superior Court within thirty (30) days after the date of the decision and the order of the Board of Zoning Appeals pursuant to Indiana law as provided in such cases.

Section 38. PRE-EXISTING HISTORIC DISTRICTS

In accordance with this section the original amended maps shall designate previous Historic Districts approved by City Council as part and subject to this ordinance.

Section 39. ENFORCEMENT AND PENALTIES

The procedure for enforcement of this article shall follow Article V, Section 23 and 25 of this ordinance.

4742

1 Section 40. SAVING CLAUSE

2 The enactment of this chapter shall not affect or prevent the
3 prosecution or punishment of any person for any act done or committed in
4 violation of any ordinance or part or provision of any chapter of the
Municipal Code of the City of Fort Wayne, Indiana, 1946 prior to the taking
effect of this chapter.

5
6 ARTICLE X - FLOOD PLAIN MANAGEMENT AND CONTROL

7 Section 41. General Criteria For Flood Plain Regulations.

8 A. Objectives.- The objective of these criteria are to
9 provide a uniform basis for the preparation and implementation of sound
flood plain regulations for Fort Wayne's rivers and streams to:

- 10 (1) Protect human life and health.
- 11 (2) Protect individuals from buying lands and struc-
12 tures which are unsuited for intended purposes because of flood hazards.
13 (3) Provide for public awareness of the flooding
14 potential.
- 15 (4) Minimize public and private property damage.
- 16 (5) Minimize surface and ground-water pollution
17 which will affect human, animal, or plant life.
- 18 (6) Control Flood-plain uses such as fill, dumping,
19 storage of material, structures, buildings, and any other works which acting
20 alone or in combination with other existing or future uses which will cause
21 damaging flood heights and velocities by obstructing flows and reducing
22 valley storage.
- 23 (7) Control development which will, when acting
24 alone or in combination with similar developments, create an unjustified
25 demand for public investment in flood-control works by requiring that use
26 vulnerable to floods, including public facilities which serve such uses,
27 shall be protected against flood damage at the time of initial construction.
- 28 (8) Control development which will, when acting
29 alone or in combination with similar development, cause flood losses if
30 public streets, sewer, water, and other utilities must be extended below the
31 flood level to serve the development.
- 32 (9) Control development which will, when acting
alone or in combination with similar development, create an additional
burden to the public to pay the costs of rescue, relief, emergency prepared-
ness measures, sandbagging, pumping and temporary dikes or levees.
- (10) Control development which will, when acting
alone or in combination with similar development create an additional burden
to the public for business interruptions, factory closings, disruption of
transportation routes, interference with utility services, and other factors
that result in loss of wages, sales, production, and tax write offs.
- (11) Help maintain a stable tax base by the preserva-
tion or enhancement of property values for future flood-plain development.
In addition, development of future flood-blight areas on flood plains will
be minimized and property values and the tax base adjacent to the flood
plain will be preserved.

Section 42. Definitions - Whenever used or referred to in this
ordinance unless a different meaning appears from the context:

- A. "Board" - Board of Zoning Appeals
- B. "Commission" - Fort Wayne City Plan Commission

1 C. "Flood" or "Flood Water" - means the water of any
2 river or stream in the State or upon or adjoining any boundary line of the
3 State which is above the bank and/or outside the channel and banks of such
4 river or stream.

5 D. "Flood Hazard Areas" - means those areas of the flood
6 plain which have not been adequately protected from flooding by the regula-
7 tory flood by means of dikes, levees, reservoirs, or other works approved by
8 the Commission.

9 E. "Flood Plain" - means the area adjoining the river or
10 stream which has been or may hereafter be covered by flood water.

11 F. "Flood-Proofing" - a combination of structural provi-
12 sions, charges, or adjustments to properties and structures subject to
13 flooding primarily for the reduction or elimination of flood damages to
14 properties, water and sanitary facilities, structures, and contents of
15 buildings in a flood-hazard area.

16 G. "Flood Protection Grade" - means the elevation of the
17 lowest point around the perimeter of a building at which flood waters may
18 enter the interior of the building.

19 H. "Floodway" (FW) see (M) "Regulatory Floodway"

20 I. "Floodway Fringe" (FF) - means those portions of the
21 flood hazard areas lying outside the floodway.

22 J. "General Flood-Plain District" (GF) see (D) "Flood
23 Hazard Areas".

24 K. "INRC" - The Indiana Natural Resources Commission.

25 L. "Obstruction" - any dam, wall, wharf, embankment
26 levee, dike, pile, abutment, projection, excavation, channel rectification,
27 bridge, conduit, culvert, building, wire, fence, rock, gravel refuse, fill,
28 structure or matter in, along, across or projecting into any channel, water-
29 course, or regulatory flood-hazard area which may impede, retard, or change
30 the direction of the flow of water, or that is placed where the flow of
31 water might carry the same downstream to the damage of life or property.

32 M. "Regulatory Flood" - means that flood having a peak
discharge which can be expected to be equalled or exceeded on the average of
once in a one hundred year period, as calculated by a method and procedure
which is acceptable to and approved by the Commission. This flood is equi-
valent to a flood having a probability of occurrence of one percent in any
given year.

N. "Regulatory Flood Profile" - means a longitudinal pro-
file along the thread of a stream showing the maximum water surface eleva-
tions attained by the regulatory flood.

O. "Regulatory Floodway" or "Floodway" - means the chan-
nel of a river or stream and those portions of the flood plains adjoining
the channel which are reasonably required to efficiently carry and discharge
the peak flood flow of the regulatory flood of any river or stream.

P. "River or Stream" - shall mean all open channels,
whether natural, man-made, or notified by man, which carry or discharge
water.

Section 43. Flood Hazard Area Delineation.

The areal extent of the flood hazard area shall include all land as indicated on maps supplied by the Army Corps of Engineers, the Soil Conservation Service and the Department of Housing and Urban Development. The regulatory floodway, floodway fringe, the peak discharge and the flood profile shall be determined by the INRC utilizing the best available technology and shall be approved by the Commission.

Section 44. Establishment of District Boundaries.

The mapped flood-hazard areas within the jurisdiction of this ordinance are hereby designated as the GENERAL FLOOD-PLAIN DISTRICT (GF). The Boundaries of this district shall be shown on the official Zoning Map. Within this district all uses not permissible by right or as special-permit uses shall be prohibited.

Section 45. District Boundaries Changes Thereto.

The "General Flood-Plain District" shall be divided into a "Floodway (FW)" and a "Floodway Fringe (FF) District" upon determination and delineation by the INRC and the Commission. When this division occurs the provisions outlined in Section 46 and 47 shall automatically take effect.

Section 46. General Flood Plain District. (GF)

A. General Provisions and Uses. It is the intent of this ordinance to control and manage the uses of land in the General Flood Plain (GF) so as to meet the objectives identified and superimposed over the existing zoning districts. However, before an Improvement Location Permit can be issued for any permitted uses, the Zoning Enforcement Officer must ascertain whether said use or accompanying structure will be detrimental to the objectives identified in Section 40 A. (1) - (11).

B. General Use Permit. All construction, building, alteration of structures or land, change of use, or initiation of a new use in the General Flood Plain will require a "general use permit" before the issuance of an Improvement Location Permit. This "General Use Permit" shall be granted by the Zoning Enforcement Officer.

C. Procedures Being Followed Regarding Construction in General Flood Plain District.

(1) All plans submitted to the Commission for either approval by the Commission or application for Improvement Location Permits will be checked against the official Zoning Map. If the site location falls within a flood hazard area, a location map and letter will be submitted to the INRC for their recommendation. Until comment is received from the INRC NO action will be taken by the Commission.

(2) Based upon the technical evaluation of the INRC, the Zoning Enforcement Officer shall determine and evaluate the specific flood hazard at the site and shall determine the suitability of the proposed use in relation to the potential flood hazard. If he finds the proposed use suitable, he will issue a "General Use Permit". Upon issuance of this permit an Improvement Location Permit shall be issued forthwith provided the other requirements of this ordinance have been satisfied.

If upon receipt of comments by the INRC, he finds that the proposed use is unsuitable in relation to the potential flood hazard, he shall deny the application for a "General Use Permit". The applicant may then file for a

hearing before the Commission if he so chooses. The applicant shall have the burden of proof to establish that the permit was wrongfully denied.

Both the Commission and the Zoning Enforcement Officer shall consider the factors listed in Section 46 D (2) when making their decision on the suitability of the proposed use.

Section 47. Floodway Districts. (FW)

A. Permitted uses within a regulatory floodway district. The following land uses have acceptable low flood damage potential and shall not require a special permit for construction in the floodway, provided they do not involve any structure, obstruction, deposit, or excavations. This list is intended to include examples of open space uses which will not adversely affect the efficiency of or unduly restrict the capacity of the regulatory floodway and are reasonably tolerant of the presence of flood waters.

(1) Agricultural uses such as the production of crops, pastures, orchards, plant nurseries, vineyards, and general farming.

(2) Forestry, wildlife areas, and nature preserves.

(3) Park and recreational uses, such as golf courses, driving ranges, and play areas.

B. Special Exception Uses - Floodway Districts. The following uses of land may have unacceptable flood damage potential; involve structures, obstructions, deposits, or excavation which may adversely affect the efficiency of or unduly restrict the capacity of the regulatory floodway; constitute an unreasonable hazard to the safety of life or property; or result in unreasonable detrimental effects upon fish, wildlife, and botanical resources. These uses will require a "Special Permit" for construction in the Floodway as provided in "Special Permit" uses of this ordinance. In general, these uses involve water management structures, transportation facilities, temporary or seasonal flood plain occupancy, or public, industrial, and commercial uses which are either dependent on their proximity to water or are reasonably open in nature and flood tolerant.

(1) Water management and use facilities, such as dams, docks, dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharves, levees, seawalls, floodwalls, weirs, and irrigation facilities.

(2) Transportation facilities, such as streets, bridges, roadways, fords, airports, pipe lines, railroads, and utility transmission facilities.

(3) Temporary or seasonal flood plain occupancy, such as circus sites, fair sites, carnival sites, boat ramps, camps, roadside stands, and transient amusement facility sites.

(4) Water-related urban uses, such as wastewater treatment facilities, storm sewers, electrical generating and transmission facilities, and water treatment facilities.

(5) Other flood tolerant or open urban uses, such as flood-proofed industrial and commercial buildings, race tracks, tennis courts, park buildings, outdoor theatres, fills, truck freight terminals, radio or TV towers, parking lots, and mineral extractions.

C. Standards for Floodway Special Use Permit Uses. All Uses. No structure (Temporary or permanent), fill (including fill for roads

and levees) deposit, obstruction, storage of materials or equipment, or other use may be allowed as a special exception use which, acting alone or in combination with existing or future uses, unduly affects the capacity of the floodway or unduly increases heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. In addition all floodway special permit uses shall be subject to the standards contained in Section 47 D (2) of this Article.

D. Procedures for Development Within Floodway.

(1) Any use listed in this ordinance as requiring a special use permit may be allowed only upon application to the Zoning Enforcement Officer on forms furnished by him and the issuance of a "Special Permit." Upon receipt of the application the Zoning Enforcement Officer shall forthwith submit it to the Board of Zoning Appeals.

(2) Procedure to be followed by the Board of Zoning Appeals in passing on special permits. Upon receiving an application for a special permit involving the use of fill, construction of structures, or storage of materials, the Board of Zoning Appeals shall, prior to rendering a decision thereon; request and receive the recommendation of the INRC as to the suitability of the proposed use in relation to the flood hazard. In passing upon such applications, the Board of Zoning Appeals shall consider all relevant factors specified in other sections of this ordinance:

- (a) The danger of life and property due to increased flood heights or velocities caused by encroachments.
- (b) The danger that materials may be swept on to other lands or downstream to the injury of others.
- (c) The proposed water supply and sanitation systems and the ability to these systems to prevent disease, contamination, and unsanitary conditions.
- (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- (e) The importance of the services provided by the proposed facility to the community.
- (f) The requirements of the facility for a waterfront location.
- (g) The availability of alternative locations not subject to flooding for the proposed use.
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (i) The relationship of the proposed use to the comprehensive plan and flood-plain management program for the area.
- (j) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(l) Such other factors which are relevant to the purposes of this ordinance.

E. Fill.

(1) Any fill proposed to be deposited in the floodway must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fills or other materials.

(2) Such fill or other materials shall be protected against erosion by riprap, vegetation cover, or bulkheading.

F. Structures (temporary or permanent).

(1) Structures shall not be designed for human habitation.

(2) Structures shall have a low flood-damage potential.

(3) The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

(a) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of the flow of flood waters.

(b) So far as practicable, structures shall be placed approximately on the same flood-flow lines as those of adjoining structures.

(4) Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river; and,

(5) Service facilities such as electrical and heating equipment shall be constructed at or above the regulatory flood-protection elevation for the particular area or flood-proofed.

G. Storage of Material and Equipment.

(1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.

(2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after Flood warning.

Section 48. Floodway-Fringe District. (FF)

A. Floodway-Fringe District. All facilities, structures, and buildings normally found in a community, such as businesses, medical

facilities, community and government buildings, industrial facilities, restaurants, commercial facilities, storage facilities, utility buildings, amusement facilities, residential buildings, and civic or fraternal facilities, may be constructed in a floodway fringe district provided that the flood protection grade for all buildings shall be at least at or above the regulatory flood profile and that the zoning shall be proper.

B. Procedure. Before the issuance of an Improvement Location Permit, the Zoning Enforcement Officer shall determine that the proposed use meets the requirements and intent of this ordinance.

Section 49. Conditions Attached to "Special Permits"

Upon consideration of the factors listed above and the purpose of this ordinance, the Commission may attach such conditions to the granting of special permits and variances as it deems necessary to further the purpose of this ordinance.

Section 50. Nonconforming Uses.

All land uses now existing in flood hazard areas not in full compliance with this rule shall be considered a nonconforming use. Except for normal maintenance, any building which constitutes a nonconforming use may be altered, repaired, enlarged, or extended, provided such alterations, repairs, enlargements, or extensions do not increase the value of the building, excluding the value of the land, by more than fifty percent (50%) of its pre-improvement market value, and the alterations, repairs, enlargements, or extensions are not otherwise prohibited or restricted by state law or local ordinances. Any building which constitutes a nonconforming use which is damaged by flood, fire, explosion, act of God, or the public enemy, may be restored to its original dimensions and condition, provided the damage does not reduce the value of the land by more than fifty percent (50%) of its pre-damaged market value. Any repairs, alteration, enlargements, or extensions, of any existing nonconforming use which does not involve a building is subject to the provisions of this ordinance.

Section 51. Variances.

This ordinance promulgates standards and procedures essential to assure reasonable protection to present and future uses within the flood plain. However, there may be a need from time to time, to permit variances from these standards in particular cases within areas which are almost entirely developed. The Board may grant such variances only where the following conditions are met:

(1) The structure or use is located on a lot of one half acre or less and is surrounded by existing structures; and,

(2) Good and sufficient cause exists for granting the variance; and,

(3) Failure to grant the variance would result in extreme hardship to the owners of the land; and,

(4) All possible efforts are made to minimize potential flood damages.

If the Board grants a variance according to the above, it must give written notice to the applicant. This written notice shall include:

4742

1 (1) The fact that the proposed structure will be
2 located in a flood prone area.

3 (2) The number of feet that the lowest floor of the
4 proposed structure will be below the 100-year flood level.

5 (3) The fact that the flood insurance rates will be
6 increased commensurate with the distance below the 100-year flood level.

7 This notice shall be attached to the building permit and must be displayed
8 with it.

9 Section 52. Warning and Disclaimer of Liability.

10 The degree of flood protection required by this ordinance is
11 considered reasonable for regulatory purposes and is based on engineering
12 and scientific considerations. Larger floods can and will occur on rare
13 occasions. Flood heights may be increased by man-made or natural causes,
14 such as ice or debris jams. This ordinance does not imply that area outside
15 flood hazard areas, as defined herein, will be free from flooding or flood
16 damages. This ordinance does not create liability on the part of the State
17 of Indiana, the INRC, the Board, the Commission, or the City of Fort Wayne,
18 or any elected or appointed official or employee thereof for any flood
19 damages that result from reliance on this rule or any administrative decision
20 lawfully made thereunder.

21 Section 53. Severability.

22 If any section, clause, provision or portion of this Ordinance is
23 adjudged unconstitutional or invalid by a court of competent jurisdiction,
24 the remainder of this Ordinance shall not be affected thereby.

25 SECTION 54. That this ordinance shall be in full force and effect
26 from and after its passage, approval by the Mayor and due legal publication
27 thereof.

28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

Councilman

APPROVED AS TO
FORM & LEGALITY

William M. Seim, City Attorney

Read the first time in full and on motion by _____,
seconded by _____, and duly adopted, read the second time
by title and referred to the Committee _____ (and the City
Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,
Indiana, on _____, 19____, the _____ day of
_____, at _____ o'clock _____ M., E.S.T.

DATE: _____

CHARLES W. WESTERMAN
CITY CLERK

Read the third time in full and on motion by Eisbart,
seconded by Talarico, and duly adopted, placed on its
passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>0</u>	_____	_____	_____
<u>BURNS</u>	<u>X</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>X</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	<u>X</u>	_____	_____	_____	_____
<u>NUCKOLS</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHMIDT, D.</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHMIDT, V.</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>X</u>	_____	_____	_____	_____
<u>STIER</u>	<u>X</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>X</u>	_____	_____	_____	_____

DATE: 3-11-80

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ZONING MAP) General (GENERAL) (ANNEXATION) (SPECIAL)
(APPROPRIATION) ORDINANCE (RESOLUTION) No. 2-06-80
on the 11th day of March, 19 80.

ATTEST:

(SEAL)

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Vivian A. Schmidt
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 12th day of March, 19 80, at the hour of
3:40 o'clock 3 M., E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 13th day of March
19 80, at the hour of 9 o'clock A M., E.S.T.

Winfield C. Moses, Jr.
WINFIELD C. MOSES, JR.
MAYOR

Read the first time in full and on motion by Nuckols, seconded by

Hays, and duly adopted, read the second time by title and referred to the Committee on Regulation (and the City Plan Commission for Salmon 12-21-1979 recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: 12-11-19

Charles W. Winterman
CITY CLERK

Read the third time in full and on motion by _____,

seconded by _____, and duly adopted, placed on its passage.

PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	_____	_____	_____	_____	_____
<u>BURNS</u>	_____	_____	_____	_____	_____
<u>HINGA</u>	_____	_____	_____	_____	_____
<u>HUNTER</u>	_____	_____	_____	_____	_____
<u>MOSES</u>	_____	_____	_____	_____	_____
<u>NUCKOLS</u>	_____	_____	_____	_____	_____
<u>SCHMIDT, D.</u>	_____	_____	_____	_____	_____
<u>SCHMIDT, V.</u>	_____	_____	_____	_____	_____
<u>STIER</u>	_____	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____	_____

DATE: _____

CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) No. _____ on the _____ day of _____, 19____,
ATTEST: (SEAL)

CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 19____, at the hour of _____ o'clock _____ M., E.S.T.

CITY CLERK

Approved and signed by me this _____ day of _____, 19____,
at the hour of _____ o'clock _____ M., E.S.T.

MAYOR

BILL NO. G-79-12-15 (as amended)

*Feb. 15 - member of Plan Commission to open
no action*

REPORT OF THE COMMITTEE ON REGULATIONS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS REFERRED AN
ORDINANCE classifying, regulating and restricting the location,
height, area, bulk and use of buildings and structures and
the use of land within the territorial jurisdiction of the City
Plan Commission of the City of Fort Wayne, Indiana, for said
purposes dividing such territory into districts, and
amending Chapter 33 of the Code of the City of Fort
Wayne, Indiana 1974

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

BEN EISBART, CHAIRMAN

JOHN NUCKOLS, VICE CHAIRMAN

JAMES S. STIER

SAMUEL J. TALARICO

DONALD J. SCHMIDT

[Handwritten signatures: Ben Eisbart, John Nuckols, James S. Stier]

3-11-80
DATE 3-11-80 CONCURRED IN
CHARLES W. WESTERMAN, CITY CLERK
CHARLES W. WESTERMAN, CITY CLERK

Bill No. G-79-12-15 (AS AMENDED)

Page 4. Section 3 - Definitions - Item (EE) Home Occupation

SHOULD READ AS FOLLOWS:

"Any use conducted entirely within a dwelling and participated in solely by members of the family, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof and in connection with which there is no commodity sold upon the premises except that which is produced thereon, and provided, however, in no event shall a Tea Room or Animal Hospital be considered as a Home Occupation."

4742 *held 1-8-80*
TITLE OF ORDINANCE Zoning Ordinance Recodification *2: 79-12-15*

DEPARTMENT REQUESTING ORDINANCE CD&P - Land Use Management

SYNOPSIS OF ORDINANCE Complete Zoning Ordinance - combined Chapter 36 of

Municipal Code and Recodified Chapter 33 of Municipal Code. This Ordinance
does not contain any Zoning Ordinance Amendments.

EFFECT OF PASSAGE Complete Zoning Ordinance

EFFECT OF NON-PASSAGE Incomplete Zoning Ordinance (Chapter 33) with
major sections deleted.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

ASSIGNED TO COMMITTEE (J.N.) _____



OFFICE OF THE CITY CLERK

THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

Charles W. Westerman, clerk - room 122

March 17, 1980

Ms. Virginia Grace
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. Grace:

Please give the attached full coverage on the dates of March 20 and March 27, 1980, in both the News Sentinel and Journal Gazette.

RE: Legal Notice for Common Council
of Fort Wayne, Indiana

General Ordinance No. G-79-12-15
(as amended)
General Ordinance No. G-06-80

Please send us five copies of the Publisher's Affidavit from both newspapers.

Thank you.

Sincerely,

Charles W. Westerman
City Clerk

CWW/ne
Encl. 1

LEGAL NOTICE

Notice is hereby given that on the 11th day of March, 1980, the Common Council of the City of Fort Wayne, Indiana in a Regular Session did pass the following Bill No. G-79-12-15 (AS AMENDED) -- General Ordinance No. G-06-80 being AN ORDINANCE classifying, regulating and restricting the location, height, area, bulk and use of buildings and structures and the use of land within the territorial jurisdiction of the City Plan Commission of the City of Fort Wayne, Indiana, for said purposes dividing such territory into districts, and amending Chapter 33 of the Code of the City of Fort Wayne, Indiana, 1974

I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana do hereby certify that Bill No. G-79-12-15 (AS AMENDED) -- General Ordinance No. G-06-80, was duly signed and approved by the Mayor on the 13th day of March, 1980, and now remains on file and on record in my office.

Copy of said Bill No. G-79-12-15 (AS AMENDED) -- General Ordinance No. G-06-80, will be posted in the following places in Fort Wayne, Allen County, Indiana

- (1) The main floor lobby of the City-County Building
- (2) The bulletin board in the lobby of the Downtown Fort Wayne Public Library
- (3) The bulletin board in the lobby at the East door of the Allen County Court House

Copy of said Bill No. G-79-12-15 (AS AMENDED) -- General Ordinance No. G-06-80, will be available for reading in the following places in Fort Wayne Allen County, Indiana

- (1) Reference Room in the north end of the main floor in said Downtown Public Library
- (2) The Journal of the Common Council Proceedings in the Office of the City Clerk of Fort Wayne, Indiana, Room 122, City-County Building, Fort Wayne, Indiana

Charles W. Westerman

Charles W. Westerman
City Clerk

I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana, fulfilled and post the above ordinance in the designated places as stated above on March 20, 1980

Charles W. Westerman

Charles W. Westerman
City Clerk

Fort Wayne Common Council

To.....JOURNAL-GAZETTE.....Dr.

(Governmental Unit)

Allen

County, Ind.

PORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display	Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) - number of equivalent lines	_____
Head	number of lines	_____
Body	number of lines	60
Tail	number of lines	2
Total number of lines in notice		62

COMPUTATION OF CHARGES

62 lines, 1 columns wide equals 62 equivalent lines at .253¢ \$ 15.69
cents per line

Additional charge for notices containing rule or tabular work (50 per cent of above amount) _____

Charge for extra proofs of publication (50 cents for each proof in excess of two) 3 extra 1.50

TOTAL AMOUNT OF CLAIM. \$ 17.19

DATA FOR COMPUTING COST

Width of single column 9.6 picas Size of type 6 point
Number of insertions 2 Size of quad upon which type is cast 6

Pursuant to the provision and penalties of Ch. 89, Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Arvilla Dewald

Title.....CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana
Allen County SS:

Personally appeared before me, a notary public in and for said county and state, the undersigned.....ARVILLA DEWALD.....who, being duly sworn, says that she is.....CLERK.....of the

JOURNAL-GAZETTE

a.....DAILY.....newspaper of general circulation printed and published in the English language in the city of.....FORT WAYNE, INDIANA.....town

in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for.....two times.....the dates of publication being as follows: 3/20 - 3/27/80

Subscribed and sworn to before me this 27 th day of March 1980

My commission expires September 28, 1983

Date

Notice is hereby given that on the 11th day of March, 1980, the Common Council of the City of Fort Wayne, Indiana in a Regular Session did pass the following Bill No. G-79-12-15 (AS AMENDED) - General Ordinance No. G-06-80 being AN ORDINANCE classifying, regulating and restricting the location, height, area, bulk and use of buildings and structures and the use of land within the territorial jurisdiction of the City of Fort Wayne, Indiana, for said purposes dividing such territory into districts, and amending Chapter 33 of the Code of the City of Fort Wayne, Indiana, 1974.

1. Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana do hereby certify that Bill No. G-79-12-15 (AS AMENDED) - General Ordinance No. G-06-80, was duly signed and approved by the Mayor on the 13th day of March, 1980, and now remains on file and on record in my office.

Copy of said Bill No. G-79-12-15 (AS AMENDED) - General Ordinance No. G-06-80, will be available in the following places in Fort Wayne, Allen County, Indiana.

(1) The main floor lobby of the City/County Building

(2) The bulletin board in the lobby of the Downtown Fort Wayne Public Library

(3) The bulletin board in the lobby at the East door of the Allen County Court House

Copy of said Bill No. G-79-12-15 (AS AMENDED) - General Ordinance No. G-06-80, will be available for reading in the following places in Fort Wayne Allen County, Indiana.

(1) Reference Room in the north end of the main floor in said Downtown Public Library

(2) The Journal of the Common Council Proceedings in the Office of the City Clerk of Fort Wayne, Indiana, Room 122, City County Building, Fort Wayne, Indiana.

CHARLES W. WESTERMAN
City Clerk

I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana, full and true and post the above ordinance in the designated places as stated above on March 20, 1980.

CHARLES W. WESTERMAN
City Clerk

Fort Wayne Common Council

To JOURNAL-GAZETTE Dt. _____

(Governmental Unit)

Allen

...County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) – number of equivalent lines

Head	number of lines
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
26	26
27	27
28	28
29	29
30	30
31	31
32	32
33	33
34	34
35	35
36	36
37	37
38	38
39	39
40	40
41	41
42	42
43	43
44	44
45	45
46	46
47	47
48	48
49	49
50	50
51	51
52	52
53	53
54	54
55	55
56	56
57	57
58	58
59	59
60	60
61	61
62	62
63	63
64	64
65	65
66	66
67	67
68	68
69	69
70	70
71	71
72	72
73	73
74	74
75	75
76	76
77	77
78	78
79	79
80	80
81	81
82	82
83	83
84	84
85	85
86	86
87	87
88	88
89	89
90	90
91	91
92	92
93	93
94	94
95	95
96	96
97	97
98	98
99	99
100	100

Body	number of lines
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
26	26
27	27
28	28
29	29
30	30
31	31
32	32
33	33
34	34
35	35
36	36
37	37
38	38
39	39
40	40
41	41
42	42
43	43
44	44
45	45
46	46
47	47
48	48
49	49
50	50
51	51
52	52
53	53
54	54
55	55
56	56
57	57
58	58
59	59
60	60
61	61
62	62
63	63
64	64
65	65
66	66
67	67
68	68
69	69
70	70
71	71
72	72
73	73
74	74
75	75
76	76
77	77
78	78
79	79
80	80
81	81
82	82
83	83
84	84
85	85
86	86
87	87
88	88
89	89
90	90
91	91
92	92
93	93
94	94
95	95
96	96
97	97
98	98
99	99
100	100

Tail number of lines

Total number of lines in notice

60

2

62

COMPUTATION OF CHARGES

62 lines, 1 columns wide equals 62 equivalent lines at .253¢ \$ 15.69
cents per line

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two) 3 extra

TOTAL AMOUNT OF CLAIM.

1.50

17.19

DATA FOR COMPUTING COST

Width of single column 9.6 picas

Size of type 6 point

Number of insertions 2

Size of quad upon which type is cast.....6.....

Pursuant to the provision and penalties of Ch. 89., Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Asvella De Kald

Date Mar. 27 19 80

Title.....CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana
ALLEN County SS:

Personally appeared before me, a notary public in and for said county and state, the undersigned.....**ARVILA DEWALD**.....who, being duly sworn, says that she is.....**CLERK**.....of the

JOURNAL-GAZETTE

a. DAILY newspaper of general circulation printed and published
in the English language in the city of FORT WAYNE, INDIANA
town

in state and county aforesaid, and that the printed matter attached hereto is a true copy,
which was duly published in said paper for.....two times....., the dates of publication being
as follows:

3/20 - 3/27/80

Subscribed and sworn to before me this 27th day of March 1980

My commission expires September 28, 1983

79 April 50003
light green, medium
dark green, medium
dark green, medium

CITY OF BAINBRIDGE, CT
The territorial jurisdiction of the City Plan Commission of the City of Fort Wayne, Indiana, is hereby amended by dividing such territory into districts and amending Chapter 33 of the City Code of Ordinances, Indiana, 1974.

CITY OF FORT WAYNE, INDIANA
Whereas, W. Westerman, Clerk of the City of Fort Wayne, Indiana do hereby certify that Bill No. 79-G-1215 (AS AMENDED) - General Ordinance No. G-6-80, was duly signed and approved by the Mayor on the 11th day of March, 1980, and the same remains on file and on record in my office.

COPY OF SAID BILL NO. 79-G-1215 (AS AMENDED) - General Ordinance No. G-6-80, is hereby placed in the following places in Fort Wayne, Allen County, Indiana:
City Clerk's Office lobby of the City County Building
City Clerk's Office lobby in the lobby of the Downtown Fort Wayne Public Library
City Clerk's Office bulletin board in the lobby of the East door of the Allen County Court House

COPY OF SAID BILL NO. 79-G-1215 (AS AMENDED) - General Ordinance No. G-6-80, is hereby placed for reading in the following places in Fort Wayne Allen County, Indiana:
City Clerk's Office lobby in the north end of the main floor in said Downtown Public Library
City Clerk's Office lobby of the Common Council Proceedings in the Office of the City Clerk in the City of Fort Wayne, Indiana, Room 122, City County Building, Fort Wayne, Indiana.

CHARLES W. WESTERMAN
City Clerk
I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana, do hereby certify that the above ordinance was duly signed and approved by the Mayor on the 11th day of March, 20, 1980.

CHARLES W. WESTERMAN
City Clerk

3-20-27

Fort Wayne Common Council

(Governmental Unit)

To NEWS-SENTINEL Dr.Allen County, Ind.FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) - number of equivalent lines _____

Head number of lines _____

Body number of lines 60Tail number of lines 2Total number of lines in notice 62

COMPUTATION OF CHARGES

62 lines, 1 columns wide equals 62 equivalent lines at .253¢ \$ 15.69
cents per line

Additional charge for notices containing rule or tabular work (50 per cent of above amount) _____

Charge for extra proofs of publication (50 cents for each proof in excess of two) 3 extra 1.50

TOTAL AMOUNT OF CLAIM.

\$ 17.19

DATA FOR COMPUTING COST

Width of single column 9.6 picas

Size of type 6 pointNumber of insertions 2Size of quad upon which type is cast 6

Pursuant to the provision and penalties of Ch. 89., Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Notice is hereby given that on the 11th day of March, 1980, the Common Council of the City of Fort Wayne, Indiana in a Regular Session did pass the following Bill No. G-79-12-15 (AS AMENDED) - General Ordinance No. G-96-80 being AN ORDINANCE classifying, regulating and restricting the location, height, area, bulk and use of buildings and structures and the use of land within the territorial jurisdiction of the City Plan Commission of the City of Fort Wayne, Indiana, for said purposes dividing such territory into districts, and amending Chapter 33 of the Code of the City of Fort Wayne, Indiana, 1974.

I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana do hereby certify that Bill No. G-79-12-15 (AS AMENDED) - General Ordinance No. G-96-80, was duly signed and approved by the Mayor on the 13th day of March, 1980, and now remains on file and on record in my office.

Copy of said Bill No. G-79-12-15 (AS AMENDED) - General Ordinance No. G-96-80, will be posted in the following places in Fort Wayne, Allen County, Indiana.

(1) The main floor lobby of the City-County Building

(2) The bulletin board in the lobby of the Downtown Fort Wayne Public Library

(3) The bulletin board in the lobby at the East door of the Allen County Court House

Copy of said Bill No. G-79-12-15 (AS AMENDED) - General Ordinance No. G-96-80, will be available for reading in the following places in Fort Wayne Allen County, Indiana.

(1) Reference Room in the north end of the main floor in said Downtown Public Library

(2) The Journal of the Common Council Proceedings in the Office of the City Clerk of Fort Wayne, Indiana, Room 122, City County Building, Fort Wayne, Indiana.

CHARLES W. WESTERMAN
City Clerk

I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana, fulfilled and post the above ordinance in the designated places as stated above on March 20, 1980.

CHARLES W. WESTERMAN
City Clerk

3-20 27

D. RooseTitle CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana
ALLEN County SS:Personally appeared before me, a notary public in and for said county and state, the undersigned D. Roose who, being duly sworn, says that she is CLERK of theNEWS-SENTINELa DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA town _____in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for two times the dates of publication being as follows:3/20 - 3/27/80Subscribed and sworn to before me this 27 th day of March 1980My commission expires September 28, 1983

Notary Public

Fort Wayne Common Council

(Governmental Unit)

To NEWS-SENTINEL Dr.

Allen

County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display	Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) — number of equivalent lines	_____
Head	number of lines	_____
Body	number of lines	<u>60</u>
Tail	number of lines	<u>2</u>
Total number of lines in notice		<u>62</u>

COMPUTATION OF CHARGES

62 lines, 1 columns wide equals 62 equivalent lines at .253¢ \$ 15.69
cents per line

Additional charge for notices containing rule or tabular work (50 per cent of above amount) _____

Charge for extra proofs of publication (50 cents for each proof in excess of two) 3 extra 1.50

TOTAL AMOUNT OF CLAIM. \$ 17.19

DATA FOR COMPUTING COST

Width of single column 9.6 picas Size of type 6 point
Number of insertions 2 Size of quad upon which type is cast 6

Pursuant to the provision and penalties of Ch. 89., Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

D. Roose

Date Mar. 27 19 80

Title CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana
ALLEN County SS.

Personally appeared before me, a notary public in and for said county and state, the undersigned D. Roose who, being duly sworn, says that she is _____ of the

NEWS-SENTINEL

a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA town _____

in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for two times the dates of publication being as follows: 3/20 - 3/27/80

Subscribed and sworn to before me this 27 th day of March 19 80

September 28, 1983 Notary Public

My commission expires _____

